

Mr David Reger

By email:

request-23268-7d2f7056@whatdotheyknow.com

Our ref IAT/FOIA/73581

Direct Line 020 7211 8424

Date 26 November 2009

Email xxxxxxxx.xxxx@xxx.xxx.gov.uk

Dear Mr Reger

**Freedom of Information Act Request 2000 – Primemark Consumer Products Ltd**

Thank you for your email of 16 November 2009 requesting information relating to Primemark Consumer Products Ltd.

We are treating your request for information in accordance with the terms of the Freedom of Information Act 2000 (FoIA) and the disclosure provisions of the Enterprise Act 2002 (EA02).

Unfortunately your request for information about Primemark Consumer Products Ltd is exempt from the right of access under the FoIA for the reasons detailed below, and therefore I am unable to provide you with the information you have requested.

Complaints information about a business or individual including: whether or not the OFT has received any complaints, the details of those complaints, or the number of complaints, is exempt under section 44(1)(a) of the FoIA because it is information whose disclosure is prohibited under Part 9 of the EA02.

Section 44(1)(a) of the FoIA provides an absolute exemption from disclosure of complaints information where the public authority holding it is prohibited by or under any other enactment from disclosing that information. Sections 237 and 238 of the EA02 prohibit the disclosure of specified information except in very limited circumstances. Specified information is information which comes to a public authority in connection with the exercise of its functions under the EA02 and other specified legislation. Complaints information that is received by the OFT and/or Consumer Direct, including the details or the number of complaints about a particular company or trader, is received in the course of



the performance of our functions under the EA02 and is therefore subject to the exemption on disclosure in Section 44(1)(a) of the FoIA.

The duty under Section 1(1)(a) of the FoIA which states:

‘Any person making a request for information to a public authority is entitled (a) to be informed in writing by the public authority whether it holds information of the description specified in the request’

does not apply by virtue of Section 44(2) of the FoIA which states:

‘The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with Section 1(1)(a) of the FoIA would fall within Section 44(1)(a-c).’

### **Disclosure under Part 9**

The Enterprise Act 2002 (Disclosure of Information for Civil Proceedings etc) Order 2007 which came into effect on 1 October 2007 and which amends Part 9 EA02 referred to above does, however, provide a gateway for the disclosure of certain information but only for the purposes of civil proceedings in which the person requesting information is a consumer in relation to the proceedings. In order to assess the applicability of this particular gateway, to allow any disclosure of specified information, we would need strong evidence to show that such proceedings are either under way or in contemplation.

### **Appeals procedure**

If you wish to complain about the way in which your request for information has been handled, you may seek an internal review by writing to:

The Internal Review Co-ordinator  
Room GS 3  
Office of Fair Trading  
Fleetbank House  
2-6 Salisbury Square  
London  
EC4Y 8JX

You may alternatively send an e-mail to [foxxxxxxxxxxxxxxxxxxxxx@xxx.xxx.xxx.uk](mailto:foxxxxxxxxxxxxxxxxxxxxx@xxx.xxx.xxx.uk)

We will deal with your complaint within 25 working days of receipt or, if this is not possible, advise you of a date by which we expect to have completed a review of your complaint.

If you remain dissatisfied with the OFT's response you have the right to complain to:

The Information Commissioner  
FOI/EIR Complaints Resolution  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SX9 5AF

Yours sincerely

Mrs P D Shah  
Consumer Direct  
Office of Fair Trading