



HM TREASURY

1 Horse Guards Road London SW1A
2HQ

Lisa Evans

Via email: [request-29053-
bce18c29@whatdotheyknow.com](mailto:request-29053-bce18c29@whatdotheyknow.com)

Information Rights Unit

Tel: 0207 270 4558

Fax: 0207 270 4861

www.hm-treasury.gov.uk
[public.enquiries@hm-
treasury.gsi.gov.uk](mailto:public.enquiries@hm-treasury.gsi.gov.uk)

Ref: IRU review 16/10

17 June 2010

Dear Ms Evans,

FOI Internal Review – Training Material for COINS

On 9 April you asked the Treasury to review its decision to withhold information – namely screenshots of COINS - under the Freedom of Information Act. This letter is to let you know the outcome of that review. You also wrote on 2 June querying the time to conclude this review. I am sorry that we have not been in a position to respond sooner. Our final decision has been subject to further consultation with the owners of the COINS software and our consideration of their views.

2. The review identified that those involved in producing the original response complied with all the procedural requirements under the Freedom of Information Act.

Exemptions applied

3. In relation to the decision to withhold information it considered the grounds for applying both section 43(1) and section 43(2) - since the department's response of 31 March referred to both sections - and the public interest factors in this case.

4. The review took the view that in some cases the exemptions at 43(1) and 43(2) are very closely related. They consider this to be one such case and agreed that both exemptions apply.

5. In relation to the application of the exemption at section 43(1) in particular, the review considers that the information in question constitutes a trade secret because it:



- is not generally known to the public;
- confers economic benefit on its holder. This derives *specifically* from it not being generally known, not just from the value of the information itself; and
- is the subject of reasonable efforts to maintain its secrecy.

Sections 43(1) and (2) are qualified exemptions and the review has considered the public interest balance.

Consideration of the public interest

6. The review recognised that there is a broad public interest in the release of information to inform debate and contribute to public understanding of how the government makes decisions. It accepted that disclosure of the information requested would be of interest in this context but did not identify a specific public benefit from release, given that the screenshots do not provide direct information on how public finances are managed and that they form a small part of the overall system. The review noted that the information in the screenshots comes from the COINS training system and the content does not reflect the live environment.

7. In relation to the public interest in non-disclosure, the review noted the software provider's view that the screen shots are capable of being reverse engineered by competitors in what is a niche and specialised field. It further noted that licensees' access to the screen shots is covered by a confidentiality clause that provides specifically for their protection. The review also recognised that the COINS application is unique, reflecting the particular domain experience of the software owners.

8. In this context the review noted that the screen layouts in COINS have been designed specifically to solve business problems for public sector organisations and the intellectual property rights relate to how data are captured. Competitors use a general purpose application while the COINS application reflects the domain expertise of the suppliers' ownership of budget management systems for 3 countries. Releasing information that shows how government requirements differ from those of commercial customers reveals information that would benefit competitors at the expense of the company that supplies COINS.

9. All the COINS software is licensed with a confidentiality clause that explicitly covers the screenshots. The licence for the Treasury to use the COINS software protects file formats (which are potentially revealed by the screens). In relation to the sensitivity of this particular information the review noted that screen layouts are critical to building an application. If a prototyping methodology is used, mock screen layouts are a critical first step.

10. In the light of this position, the review concluded that the release of the information in question would be likely, because of the potential for harm to the owning company's position, to prejudice their commercial interests. It further concluded that the public interest lay in withholding this information.

11. The review noted your comments relating to the definition of a trade secret in FS5016040. It concluded that the information in the screenshots met the description of a trade secret that was given in this case you have referred to. It is information that, if disclosed to a competitor, would be liable to cause real harm, for the reasons set out above. It is also information used in a business and the dissemination of the information is limited.

12. Finally, although the review has particularly focussed on the exemptions in sections 43(1) and 43(2) it also takes the view that, given the contractual obligation to protect this information, the exemption in section 41 is engaged. This is because release would constitute a breach of confidence actionable by the software provider. Section 41 provides an absolute exemption; there is no requirement to consider the public interest in release where this section is engaged.

13. I recognise that you may find the conclusions of this review disappointing, but I hope that by setting out the basis of the review, its findings and the conclusions above, you will be assured that the Treasury has, on your behalf, carried out a thorough and considered review of the request you made and the response the Treasury gave under the FOI Act.

14. If you are not content with the outcome of this internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5 AF

Yours sincerely,



Kate Jenkins
Head of Information Rights Unit

