

Mr Patrick Seurre (via e-mail)
[request-3020-07b871a2@whatdotheyknow.com]

21 November 2008

Dear Patrick

Freedom of Information case 08/0617 – Internal Review

Thank you for your e-mail of 17 October 2008 to Patrick Balchin requesting an internal review following his reply to you dated 15 October 2008, to your e-mail received on 17 September 2008 in which you requested “a copy of the entire response that was provided to the EU Commission.” I have taken “the entire response” to refer to BERR’s letter to the European Commission dated 10 September 2008.

Your request has been the subject of an internal review process. As a result of that review process, I am upholding the original decision because under the terms of the Freedom of Information Act 2000 Section 27, it is my opinion that disclosure of the letter sent to the EU Commissioner Vivianne Redding, regarding the use of Phorm and its legality would result in a detrimental effect on relations between the United Kingdom and the European Commission for the reasons explained in Patrick Balchin’s reply of 15 October 2008.

As part of the internal review process, I have paid particular attention to the application of Section 27 in this case, and I disagree with your assessment as conveyed to us in your request for an internal review.

As you are aware, Section 27 is a qualified exemption, therefore a public interest test must be applied before any decision is taken to release or withhold any information. Having reviewed the documentation presented to me, I am satisfied that the public interest was considered at all times and properly applied when considering your request for a copy of the letter.

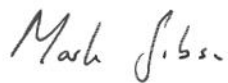
In conclusion, having reviewed the decision to withhold the information, I am satisfied that the decision to apply the exemptions was reached properly and that with due process was applied. I am also satisfied that the public interest in withholding the information continues to outweigh that in disclosing it.

Continuation 2

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

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

Yours sincerely

A handwritten signature in black ink that reads "Mark Gibson". The signature is written in a cursive style with a large initial 'M' and a long, sweeping tail on the 'n'.

Mark Gibson
Director General, Enterprise and Business Group