

12 Endeavour Square
London
E20 1JN

Tel: +44 (0)20 7066 1000
Fax: +44 (0)20 7066 1099
www.fca.org.uk

Email: FreedomofInformationAppeals@fca.org.uk
Telephone: 0207 066 1000

Mr Graeme Wingate
Whatdotheykonw.com
(Via email)

10 October 2018

Our Ref: FOI5960

Your Ref:

Dear Mr Wingate

Freedom of Information: internal review

I refer to your email dated 13 September 2018 asking for an internal review of the Financial Conduct Authority's ("FCA") response of the same date to your request below made under the Freedom of Information Act 2000 ("the Act").

"Can the FCA tell me, how many domain name suspension requests were sent to Nominet between September 2017 and May 31st, 2018."

We also wrote to you on 24 July 2018, under the FCA reference FOI5845, in response to the following multiple three-part request you made on 20 June 2018 for the same or substantially similar information but covering a wider time frame and more detail. This was:

"I would be grateful if you could supply me with the following information for the following time frame (01/06/2017 - 31/05/2018).

- 1) Total number of domain name suspension requests made to Nominet by the FCA. Could I ask that this be broken down into two sections*

*Number of requests made
And
Number of domains involved*

For example, some single requests might have requested 100 domain names be suspended. Whilst others may have only requested one name to be suspended. By breaking it down, it would help us gather a better understanding of scale.

2) Number of domain names requests that were successful. If possible could this be broken down into the same categories?

3) If possible, any details you have on reasons for suspension requests - such as unlicensed sites etc."

Preliminary

FOI5845

In our original response to request FOI5845, dated 24 July 2018, we explained that arrangements were put in place with Nominet in September 2017 whereby the FCA started sending them details of UK hosted websites that we believed breached the Financial Services and Markets Act 2000 and requested that they suspend the sites.

We provided you with a response to point 3 of your request FOI5845 but informed you that we were not able to comply with points 1 and 2. This was because we estimate that to do so would exceed the appropriate limit set by the Regulations made under section 12 of the Act (The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations") made by the Ministry of Justice). The Regulations provide that, for the FCA, the appropriate limit is £450, i.e. 18 hours at the rate of £25 per person per hour.

FOI5960

You subsequently wrote to us on 1 August 2018 to refine your request as set out above. We treated this as a new request and allocated the (new) reference FOI5960. You also suggested that there may be a cheaper option whereby the FCA send a polite email to Nominet to enquire if they hold records of how many requests that the FCA have sent them.

We then wrote to you on 13 September 2018 to explain that, even though you have refined your request to one element and narrowed the timeframe, to comply with this would still exceed the FCA's appropriate limit under the Act. Therefore, for the reasons outlined in our response dated 24 July 2018, we consider that the exemption at section 12 of the Act still applies.

We also explained that it was not our normal practice, in dealing with requests under the Act, to approach a third party (in this case, to approach Nominet) for the information requested. Public authorities are not required to obtain information from external sources in order to comply with a request for information under the Act. They only need to consider information they already hold at the time a request is received. You replied by return to seek an internal review of that decision.

Internal review

I now turn to your request for us to reconsider our decision regarding supplying you with the information you are seeking.

I have reviewed our responses of the 24 July and 13 September 2018, together with the refinement and arguments that you have made. The outcome of my review is that I am pleased to supply you with the information you have requested. This is provided in the Annex to this letter. The Annex

also covers the points you raised in your initial request dated 20 June 2018. In order to be helpful, we took up your suggestion and approached Nominet, who provided the information, for which I am grateful. The provisions of section 12 of the Act are therefore no longer applicable and fall away.

I should explain that the release of this information does not mean we were wrong about relying on the costs exemption in section 12 of the Act. For our regulatory purposes, our records do not need to be held in a way which allows easy collation of the information you requested. Individual case officers have the information available to allow them to follow up requests with Nominet. Contacting Nominet in this case does not create a precedent for the way we might respond to any future requests that you or any other member of the public may wish to make.

Conclusion

I trust the information in the Annex to this letter provides you with the information you are seeking.

If you are not content with the outcome of the internal review, you have a right of appeal to the Information Commissioner at the following address: *Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 700, Website: www.ico.org.uk.*

Yours sincerely



 **Greg Choyce**
Internal Reviewer

Financial Conduct Authority

Freedom of Information Request – Mr Graeme Wingate (FOI5960)

This annex provides the requested information.

How many domain name suspension requests were sent to Nominet between September 2017 and May 31st, 2018.

Number of requests made = 7

Number of domains involved = 8 (one request involved two domains)

Number of domain names requests that were successful = All 8