

BIS Ref: 01.04.05/5697c

Your Ref:

Mr Phil Main

Via e-mail [<mailto:request-12876-97a2a3dd@whatdotheyknow.com>]

10 July 2009

Dear Mr Main

Freedom of Information Act 2000 – Request for information

Thank you for your e-mail of 5 June 2009 in which you asked for "Please supply copies of all correspondence between yourselves and the Home Office for the period 1st Jan 2006 to 5th June 2009 concerning Phorm/121Media."

I am writing to confirm that the Department has now completed its search for the information which you requested on 5 June and subsequently clarified by my e-mail of 11 June 2009.

A copy of the information is enclosed.

Personal information has been redacted in accordance with Section 40 of the Act. Material that attracts Legal Professional Privilege has also been redacted under Section 42 of the Act. Both of these exemptions are absolute and as such do not require a public interest test to be applied.

We have also applied the exemption allowed to us under Section 27 (1) of the Act pertaining to the United Kingdom's international relations. Before information may be withheld under the exemption, an assessment must be made, in all the circumstances of the case, of the public interest considerations both in favour of disclosure and in favour of protection of the information. Is the public interest in having the information disclosed outweighed by the public interest that would be protected by non-disclosure? In other words, when considering section 27(1), is the public interest in disclosure outweighed by the damage or likely damage that would be caused to the United Kingdom's international relations, its interests abroad or its ability to protect and promote those interests?

The exemption under section 27 (1) exists to protect the United Kingdom's international relations, its interests abroad and the United Kingdom's ability to protect and promote those interests. The United Kingdom's interests abroad and thus the subject matter of its international relations cover a wide and changing range of matters, including for example trade, defence, environment, human rights and the fight against terrorism and international crime. The specific 'interests' that the United Kingdom pursues in its relations with other states vary over time.

The likely impact of disclosure was assessed in this case. In particular consideration was given to whether the information concerned is (and remains) sensitive and what kind of effect its disclosure would, or would be likely to have, on the United Kingdom's international relations, with third party states or organisations as well as those most immediately concerned, or on the United Kingdom's interests abroad or its ability to protect and promote them. Many questions were considered: for example:

- What sort of reaction is disclosure likely to provoke in other states, international organisations and courts?
- If a negative reaction is anticipated, what will the implications of that reaction be?
- How is it likely to impact on the United Kingdoms' ability to 'do business' in and with those states etc?

We considered the likely implications not only for the UK and subject matter most immediately concerned, but also for other aspects of the United Kingdom's relations with the state concerned and its relations with other states. Even where disclosure would be unlikely to provoke a negative reaction in other states, we considered whether disclosure would nonetheless be likely to prejudice United Kingdom interests abroad or the United Kingdom's ability to protect and promote those interests. After much consideration, we concluded that disclosure in this case, would adversely prejudice to the United Kingdom's interests and international relations, notably in several current areas of international negotiations with the European Commission, most notably the possible launching of formal infringement proceedings under Article 226 of the Treaty.

If you have any queries about this letter, please contact me quoting the reference number above.

Yours sincerely



Patrick Balchin

Appeals procedure

If you are unhappy with the result of your request for information, you may request an internal review within two calendar months of the date of this letter. If you wish to request an internal review please contact me.

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

Balchin Patrick (BR2)

From: [REDACTED]@homeoffice.gsi.gov.uk
Sent: 10 November 2008 16:16
To: [REDACTED] (BR2)
Cc: [REDACTED]; [REDACTED] (BR2)
Subject: RE: Phorm - response to the Commission

[REDACTED]

I can live with these paragraphs – my real concern is that we cannot be seen to get involved in directing the police, or questioning their independence etc.

[REDACTED]

OSCT-ISLU
P5.37 Peel Building
2 Marsham Street
SW1P 4DF
0207 035 [REDACTED]

[REDACTED]@homeoffice.gsi.gov.uk

-----Original Message-----

From: [REDACTED] k (BR2) [mailto:[REDACTED]@berr.gsi.gov.uk]
Sent: 10 November 2008 9:19 AM
To: [REDACTED]
Subject: FW: Phorm - response to the Commission
Importance: High

[REDACTED]

To note further comment from our legal team. I have no objections to removing the third paragraph. Grateful for any views you may have by midday.

Thanks

[REDACTED]

From: [REDACTED]
Sent: 07 November 2008 18:52
To: [REDACTED] (BR2)
Cc: [REDACTED]
Subject: FW: Phorm - response to the Commission

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED] (BR2)
Sent: 07 November 2008 16:36
To: [REDACTED]
Cc: [REDACTED] (BR2); [REDACTED] (BR2); [REDACTED] (BR2); [REDACTED] (LEGAL B); [REDACTED] (BR2)
Subject: Phorm - response to the Commission

[REDACTED]

We have continued to mull over the response to the Commission on police activity in respect of the complaint against Phorm and have come up with this new text, that supersedes the text circulated earlier by [REDACTED]. Grateful for your views Monday a.m. as this will need to go into Stephen Carter's box on Monday afternoon. I am particularly interested in any comments on the final paragraph and the text in square brackets. We are assuming that some guidance has been issued to the police and CPS in respect of RIPA, can you confirm this? We also suggest that if there were a considerable number of complaints, with and dissatisfaction with the response to those complaints, that further guidance would be offered. We could, alternatively, say that we would consider issuing further guidance rather than categorically stating that we would at this stage.

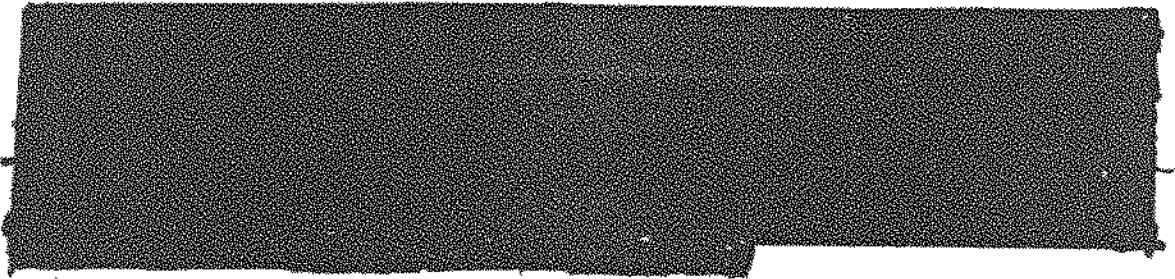
Thanks

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



Broadband, Spectrum and User Impact Policy
UG
1 Victoria Street
London SW1H 0ET
020 7215



@berr.gsi.gov.uk

BERR

Department for Business
Enterprise & Regulatory Reform

This email and any files transmitted with it are private and
intended
solely for the use of the individual or entity to whom they are
addressed.
If you have received this email in error please return it to the
address
it came from telling them it is not for you and then delete it from
your system.

This email message has been swept for computer viruses.

Baichin Patrick (BR2)

From: [redacted]@homeoffice.gsi.gov.uk
 Sent: 07 October 2008 08:40
 To: BR Information Hub
 Cc: [redacted]; [redacted]
 Subject: RE: ACTION: Are you content with the draft reply to Alistair Darling MP re Phorm ?

If you have not had a response yet ; I can confirm I am content with the letter.

[redacted]

Sorry for the delay.

0207 035 [redacted]
 Room [redacted] Floor
 Peel Building
 2 Marsham Street
 London
 SW1P 4DF

[redacted]@homeoffice.gsi.gov.uk

-----Original Message-----

From: BR Information Hub [mailto:[redacted]@berr.gsi.gov.uk]
 Sent: 01 October 2008 5:46 PM
 To: [redacted]; [redacted]
 Subject: ACTION: Are you content with the draft reply to Alistair Darling MP re Phorm ?
 Importance: High

<<LIAlistairDarlingrePhorm_1217413685423[1].pdf>> <<darling 83417 further Phorm Qs.doc>>
 [redacted], [redacted] and [redacted]

Thank you all for your earlier contributions to this correspondence case.

[redacted] the policy official here is content with the attached draft reply but she has asked me to check whether you are too. Essentially I have taken your comments on each of the points made by the constituent and put them in an annex to the letter.

Grateful for your confirmation that this draft may now be submitted.

[redacted]
BR Information hub

020 7215 [redacted]

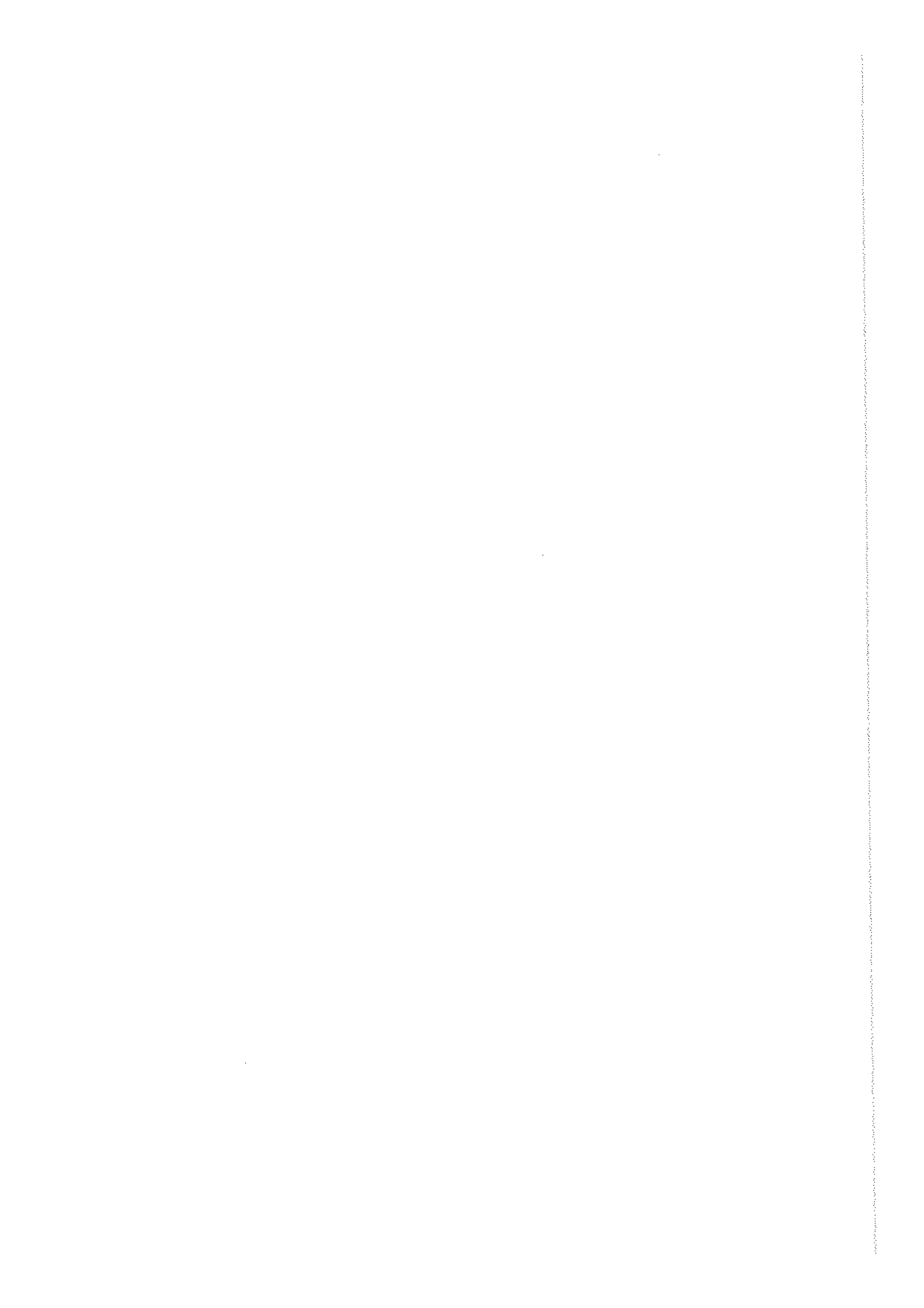
 This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed.

ACTION: Are you content with the draft reply to Alistair Darling MP re Phorm ?

Page 2 of 2

If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system.

This email message has been swept for computer viruses.



Many thanks for all your efforts and co-operation.

Best Wishes

[REDACTED]

[REDACTED], ICT User Impact

BERR

Tel: 0207 215 [REDACTED]

This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed.
If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system.

This email message has been swept for computer viruses.

<< File: 2nddraft.com.doc >> Dear All,
Please find attached the second draft of the letter to the Commission.

I would be grateful if you could please let me have your comments by cop
Wednesday 27 August. [REDACTED]

Best Wishes
[REDACTED]

[REDACTED], ICT User Impact
BERR
Tel: 0207 215 [REDACTED]

This e-mail (and any attachment) is intended only for the attention of the addressee(s). Its unauthorised use, disclosure, storage or copying is not permitted. If you are not the intended recipient, please destroy all copies and inform the sender by return e-mail.

Internet e-mail is not a secure medium. Any reply to this message could be intercepted and read by someone else. Please bear that in mind when deciding whether to send material in response to this message by e-mail.

This e-mail (whether you are the sender or the recipient) may be monitored, recorded and retained by the Ministry of Justice. E-mail monitoring / blocking software may be used, and e-mail content may be read at any time. You have a responsibility to ensure laws are not broken when composing or forwarding e-mails and their contents.

This e-mail (and any attachment) is intended only for the attention of the addressee(s). Its unauthorised use, disclosure, storage or copying is not permitted. If you are not the intended recipient, please destroy all copies and inform the sender by return e-mail.

Internet e-mail is not a secure medium. Any reply to this message could be intercepted and read by someone else. Please bear that in mind when deciding whether to send material in response to this message by e-mail.

This e-mail (whether you are the sender or the recipient) may be monitored, recorded and retained by the Ministry of Justice. E-mail monitoring / blocking software may be used, and e-mail content may be read at any time. You have a responsibility to ensure laws are not broken when composing or forwarding e-mails and their contents.

Balchin Patrick (BR2)

From: [REDACTED] ([REDACTED]@homeoffice.gsi.gov.uk)
Sent: 08 May 2009 11:37
To: [REDACTED]@cabinet-office.x.gsi.gov.uk
Cc: [REDACTED] (EITD); [REDACTED]@cabinet-office.x.gsi.gov.uk;
[REDACTED]@cabinet-office.x.gsi.gov.uk; [REDACTED] (Mr RW); [REDACTED]; [REDACTED]
[REDACTED] (International Directorate)
Subject: RE: Phorm infraction 2009/2114

[REDACTED]

As requested, I would like to confirm (with agreement of the policy lead) that the Home Office will take on the lead of the Phorm infraction case with the following provisos:

- that the case would be a HO lead so long as the case was about RIPA; and
- should the Commission come back with questions relating to Phorm, that we would reconsider which Department should then lead.

This is as agreed at the joint meeting between HO, BERR and CO on this issue on 28 April.

Kind regards

[REDACTED]

[REDACTED]

EU Parliaments & Councils Team
International Directorate
tel: +44 (0)207 035 [REDACTED]

-----Original Message-----

From: [REDACTED]@cabinet-office.x.gsi.gov.uk [mailto:[REDACTED]@cabinet-office.x.gsi.gov.uk]
Sent: 28 April 2009 4:44 PM
To: [REDACTED]@berr.gsi.gov.uk
Cc: [REDACTED]@berr.gsi.gov.uk; [REDACTED]; [REDACTED]@cabinet-office.x.gsi.gov.uk;
[REDACTED]@cabinet-office.x.gsi.gov.uk
Subject: Phorm infraction 2009/2114

[REDACTED]

We just had a second meeting on the Phorm infraction. Grateful if you would copy the minutes/ action points to [REDACTED] and [REDACTED]

[REDACTED] - We agreed at the meeting that the case would be transferred to HO lead, with the following two provisos:

- (i) That the case would be a HO lead so long as the case was about RIPA; and
- (ii) should the Commission come back with questions relating to Phorm, that we would reconsider which Department should then lead.

[REDACTED] - Please note the change of lead for our records.

Thanks.

Regards,

[REDACTED]

[REDACTED]
European and Global Issues Secretariat
Room [REDACTED] 70 Whitehall
London SW1A 2AS

020 7276 [REDACTED]

Handwritten scribbles

Handwritten scribbles

Consider the environment, think before you print!

The Cabinet Office computer systems may be monitored and communications carried on them recorded to secure the effective operation of the system and for other lawful purposes.

This email and any files transmitted with it are private and intended

solely for the use of the individual or entity to whom they are addressed.

If you have received this email in error please return it to the address

it came from telling them it is not for you and then delete it from your system.

This email message has been swept for computer viruses.

.....