

BERRRef 01.04.05.3670c

YourRef

17 October 2008

Mr I Cooper (request-137216f7594a@whatdotheyknow.com)

By e-mail

Dear Mr Cooper

Freedom of Information request

I am writing to confirm that the Department has now completed its search for the information which you requested on 24 July 2008 and subsequently clarified in your e-mail received on 28 August 2008.

You requested the following information:

Please disclose when BERR was first contacted by BT/Phorm to discuss internet advertising.

What correspondence has been exchanged concerning internet advertising between BERR and BT/Phorm since 2006?

When have BERR met with BT/Phorm to discuss internet advertising, what were the minutes and agenda of those meetings?

When were BERR first made aware of the trials of Phorm systems in 2006/2007?

What evidence have BERR sought concerning the secret trials in 2006/7?

Which independent experts has BERR consulted with in regard to the trials of Phorm technology and any future implementation of webwise.

Please accept my sincere apologies for the time taken to reply.

A copy of the information is enclosed. Personal information has been redacted in accordance with Section 40 of the Freedom of Information Act 2000.

Answer to Question 1

The first contact made by British Telecom and/or Phorm to BERR to discuss the proposed use

Enterprise and Business Group, 1 Victoria Street, London SW1H 0ET
www.berr.gov.uk

Direct Line +44 (0)20 7215 1772 | Fax +44 (0)20 7215 5444 | Minicom +44 (0)20 7215 6740
Enquiries +44 (0)20 7215 5000 | Email name.surname@berr.gsi.gov.uk

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of Phorm products (such as PageSense/ProxySense/Webwise) for internet advertising occurred on 17 April 2008.

Answer to question 2

A search of our records has revealed the correspondence attached at Annex A.

One e-mail, contained in a longer string of e-mails, has been redacted as it is out of scope of your request.

Names of individuals have been removed in accordance with Section 40 of the Act, Personal Information. This is an absolute exemption and therefore there is no need to consider a public interest test. I can confirm all redactions in the attached information fall under this exemption.

Answer to question 3

Meetings between BERR and BT

Since 2005, BERR officials have met with British Telecom from time to time to discuss a wide range of topics. We have not found any record of internet advertising being discussed at these meetings

Meetings between BERR and Phorm

BERR officials met with senior management of Phorm on 24 April 2008 at which the company gave a presentation demonstrating how their technology operates. This presentation can be found at the following address http://www.phorm.com/images/privacy_revolution.jpg

Answer to question 4

BERR were not aware of trials of Phorm/ 121 Media systems in 2006/2007. Our records show that BERR was made first aware of the trials was 14 March 2008.

Answer to question 5

BERR has not sought any evidence from British Telecom or Phorm concerning the trials of Phorm/121 media supplied systems in 2006/2007

Answer to question 6

BERR has not consulted with any independent experts in regard to the trials of Phorm technology and any future implementation of webwise

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:

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

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

Independent survey by University College London

The Constitution Unit, a research body at University College London, is carrying out an independent evaluative study of the Freedom of Information Act 2000 in co-operation with a number of public authorities, including the DBERR. An important part of the evaluation process is gathering the experiences and opinions of FOI requesters like you. Any information you provide will be handled in accordance with the privacy policy explained in the survey.

If you would like to take part in this study, please click the following link to be taken directly to the survey: <http://tinyurl.com/5tl5vf> Or, if you prefer, contact Ben Worthy at b.worthy@ucl.ac.uk or on 020 7679 4974 to ask more about the study.

If you have filled this survey out before, we invite you to fill it out again in light of the recent response to your request.'

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Patrick Balchin', with a horizontal line underneath.

Patrick Balchin
Business Relations 2

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ANNEX A

Correspondence concerning internet advertising exchanged between BERR and BT/Phorm since 2006

From: [REDACTED]@bt.com [mailto:[REDACTED]@bt.com]
Sent: 07 October 2008 15:59
To: [REDACTED]
Cc: [REDACTED]@bt.com [REDACTED]@bt.com; [REDACTED]@bt.com
Subject: House of Lords - debate this Friday on Personal Internet Safety

Can you let us know if you are preparing any briefing around this please. I believe that there was an earlier expectation that Phorm might be raised, so we'd want to be sure you have relevant background and points on this

Thanks
[REDACTED]

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

From: [REDACTED]@bt.com [mailto:[REDACTED]a@bt.com]
Sent: 01 October 2008 16:29
To: [REDACTED]
Subject: FW: Technical trial of BT Webwise commencing Tuesday 30th September 2008

[REDACTED] - either of you picked up on this ?

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

Apologies I should have copied you on this email this morning.

Do let me know if you have any questions,

Best wishes

[REDACTED]

From: [REDACTED]
Sent: 29 September 2008 09:07
To: David.Hendon@berr.gsi.gov.uk
Cc: [REDACTED]
Subject: Technical trial of BT Webwise commencing Tuesday 30th September 2008

David

I wanted to make you aware that BT is commencing this technical trial of BT Webwise on Tuesday 30th September. This information has also been posted on our website at www.bt.com/webwise in line with our commitment to disclose the start of the trial 24 hours in advance.

Invitations for the trial will be issued anonymously to a small proportion of BT's Consumer Broadband customers. For those who are invited to take part in the trial a special webpage will appear in their web browser. This will give customers the opportunity to accept the invitation, decline it, or request more information. The trial will work on an 'opt-in' basis only; customers can only take part if they accept the invitation. To view the invitation which will be visible to customers please go to www.bt.com/webwise. Users are always in control of the system and can choose to switch it on or off as they wish.

The trial will run for a number of weeks and is a technical test to confirm that the technology meets our expectations following our own internal tests. We will make a further announcement prior to moving forward with the service.

The security and privacy of our customers is of key importance to BT. This service is completely anonymous and does not store any sensitive information such as website URLs, search terms, IP addresses or browsing histories. A number of organisations including the ICO and 80/20 Thinking – an organisation specialising in privacy and data protection – have agreed that privacy is upheld by the Webwise system.

Behavioural and contextual advertising is already widely used by leading online brands and search engines, with many tracking web browsing behaviour and serving more relevant adverts as a result. To our knowledge, unlike BT Webwise, none of these have an option to switch them off. Most importantly,

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none of the systems already in use protect privacy to the extent that Webwise does – many, in fact, hold personal data such as your IP address for more than a year.

BT has thoroughly researched the Webwise proposition with customers and we have been encouraged by the very positive response it received. BT has committed that BT Webwise will be optional and our customers will have a clear choice.

Do let me know if you have any questions.

Regards

[REDACTED]

[REDACTED]

(020) 7356 [REDACTED]
(020) 7356 [REDACTED]
[REDACTED]@bt.com

BT Centre, pp A5D, 81 Newgate Street, London, EC1A 7A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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

From: [REDACTED]
Sent: 29 September 2008 09:17
To: [REDACTED]
Subject: Technical trial of BT Webwise commencing Tuesday 30th
September
2008

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 16 September 2008 12:44
To: [REDACTED]@bt.com'

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Subject: UK authority position regarding Phorm

Please find below the statement I am giving press today about the use of Phorm technology:

The UK is committed to providing a high level of consumer protection. We take our community obligations very seriously especially in the area of data protection and e-privacy. The possible future use of Phorm technology has raised material concerns in this area and the UK authorities are working to ensure that if it is introduced into the market for internet based advertising services, this is done in a lawful, appropriate and transparent fashion.

After conducting its enquiries with Phorm the UK authorities consider that Phorm's products are capable of being operated in this fashion on the following basis:

- the user profiling occurs with the knowledge and agreement of the customer
- the profile is based on a unique ID allocated at random which means that there is no need to know the identity of the individual users
- Phorm does not keep a record of the actual sites visited
- search terms used by the user and the advertising categories exclude certain sensitive terms and have been widely drawn so as not to reveal the identity of the user
- Phorm does not have nor want information which would enable it to link a user ID and profile to a living individual
- users will be presented with an unavoidable statement about the product and asked to exercise a choice about whether to be involved
- users will be able to easily access information on how to change their mind at any point and are free to opt in or out of the scheme.

Future developments involving Phorm will be closely scrutinised and monitored by the enforcement authorities.

Please call if you have questions.

Thanks

[Redacted]
[Redacted]
[Redacted] Desk
Department for Business, Enterprise and Regulatory Reform
T: 020 7215 [Redacted] M: [Redacted]
Out of hours press officer: 0207215 [Redacted]

From: Hendon David (BR2)
Sent: 15 October 2008 12:59
To: [Redacted]@bt.com'
Cc: [Redacted]@bt.com; [Redacted]
Subject: Your letter of 10 Aug

[Redacted]

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I have been reminded that we owe you a reply to your letter of 10 August about the European Commission's interest in your Phorm trials. I am very sorry not to have replied earlier. In fact we wrote to the Commission on 13 September.

You may know that there is a bit of a battle going on about our unwillingness to release, under the FOI Act, correspondence between the European Commission and the Government and I am instructed that I cannot give you a copy of our reply to the Commission either. But I would be willing to discuss the line we took with you when we meet later this week and it would be useful to understand more about how your trial will work, so as to inform our own policy response to any situation that develops. I look forward to seeing you on Monday.

David

From: [REDACTED]@bt.com [mailto:[REDACTED]@bt.com]
Sent: 06 August 2008 16:13
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Official statements

[REDACTED]

This is the statement that we issued. I have also attached a copy of the briefing that we sent to all MPs (which was also sent to BERR, DCMS and Home Office) in April.

STATEMENT

BT can confirm that we conducted a very small scale technical test of a prototype advertising platform on one exchange in June 2007. The test was specifically conducted to evaluate the functional and technical performance of the platform. Absolutely no personally identifiable information was processed, stored or disclosed during this trial. As with all Service Providers, it is important for BT to ensure that, before any potential new technologies are employed, they are robust and fit for purpose.

Happy to discuss.

Regards

[REDACTED]

[REDACTED]

☎ (020) 7356 [REDACTED]
📄 (020) 7356 [REDACTED]
@ [REDACTED]@bt.com

✉ BT Centre, pp A5D, 81 Newgate Street, London, EC1A 7AJ

BT Group plc

From: [REDACTED]@bt.com [mailto:[REDACTED]@bt.com]
Sent: 16 July 2008 14:24
To: [REDACTED]@bt.com
Subject: RE: Phorm

could you update [REDACTED] please - don't have all this to hand, thanks [REDACTED]
[REDACTED]

From: [REDACTED]@berr.gsi.gov.uk
Sent: 16 July 2008 14:23
To: [REDACTED]
Subject: Phorm

[REDACTED]

I was wondering whether you could let me know whether BT's trial of Phorm is still pending, or whether it is now live, as we have received some queries about this.

Many thanks,

[REDACTED]

From: [REDACTED]@bt.com [mailto:[REDACTED]@bt.com]
Sent: 16 July 2008 14:57
To: [REDACTED]
Cc: [REDACTED]@bt.com
Subject: Phorm

Hi [REDACTED]

Just to follow up, we will announce details of the trial on our website 24 hours before launch. The trial will begin shortly.

I will let you know when we announce the trial.
Hope this helps.

Let me know if you need anything else.

[REDACTED]

From: [REDACTED]
Sent: 16 July 2008 14:23
To: [REDACTED]@bt.com
Subject: Phorm

[REDACTED],
I was wondering whether you could let me know whether BT's trial of Phorm is still pending, or whether it is now live, as we have received some queries about this.

Many thanks,
[REDACTED]

From: [REDACTED]@bt.com [REDACTED]
Sent: 23 April 2008 18:01
To: Hendon David (BR2)
Subject: Phorm

David - a couple of colleagues met Don Foster to go through this today. His focus is on the trials. I suspect he may come back with more questions.

I noticed the answer Malcolm gave to the PQ, below. Do you think we should have any concern that Malcolm says there have been no discussions with BT (which might imply none between BT and BERR) when Shriti and [REDACTED] have discussed?

Mr. Don Foster: To ask the Secretary of State for Business, Enterprise and Regulatory Reform (1) what assessment he has made of the implications for personal privacy of the use of targeted advertising technology by companies; [198365]

(2) whether he has had discussions with BT on its use of targeted advertising technology. [198366] Malcolm Wicks: The Office of the Information Commissioner made a statement on 3 March 2008 that it was in discussion with one company about the nature of its service and the way it uses information about ISP customers. My Department will consider the continued relevance of the current safeguards and legislation in the light of the outcome of those discussions. I have had no discussions with BT on this matter.

[REDACTED]
[REDACTED]
[REDACTED]
@ [REDACTED]

@bt.com

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* BT Centre, pp A5D, 81 Newgate Street, London, EC1A 7AJ

From: [REDACTED]@bt.com [mailto:tim.osullivan@bt.com]
Sent: 02 April 2008 18:30
To: Hendon David (Mr DA) BR2; Gillatt Debbie (Miss DM) BR2
Cc: [REDACTED]@bt.com
Subject: Phorm and Bt Retail

David I know you spoke to [REDACTED] earlier today on this and mentioned that [REDACTED] is taking the official lead now you have resolved the ministry of justice issue.

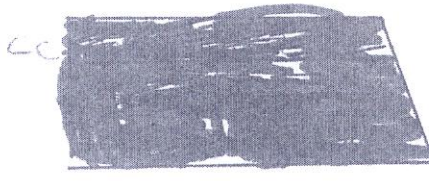
As I mentioned to you, [REDACTED] is very keen that the right minister (i.e. the one who will be signing off PQs and EDM and MP letter responses) is clear of our position on this. He doesn't want to have any repeat of DD and I think a personal conversation at that level would be helpful.

We are seeing a ramping up of press interest. BBC breakfast are running a piece tomorrow. Also, with Don Foster having tabled an EDM we are also now starting to receive MP correspondence. I think it would be helpful to us both if [REDACTED] could have the conversation with the relevant minister ([REDACTED] or [REDACTED]) as soon as possible. I understand that [REDACTED] might not consider it a major issue (at least until her mail bag fills) but its for this reason that an early conversation in case it does spiral would be most useful. [REDACTED] has of course met both [REDACTED] and [REDACTED] so neither would be 'cold called'. What do you think? Perhaps we could set up a 5 minute call for [REDACTED] with the appropriate one?

[REDACTED]
[REDACTED]

(020) [REDACTED]
(020) [REDACTED]
@ [REDACTED]@bt.com

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*Can Simon come on
draft reply please?
David 27/8*

David Hendon
Director, Business Relations 2,
Business Group,
Department for Business, Enterprise and Regulatory Reform
1 Victoria Street
London SW1H 0ET

19th August 2008

David

Following the publication of an article in The Register on Tuesday 12 August, which included a copy of Fabio Colasanti's letter of 3 July to UKRep, I would like to offer BT's comments on a number of the points raised for the record.

Doubtless you will be in contact with the ICO with regard to the previous trials of Webwise functionality, but we are of course in a position to confirm that they did indeed consider a complaint made in relation to those trials.

I would like to take this opportunity to draw your attention to the following specific points:

- The trials were small scale and were conducted specifically to evaluate functional and technical performance of the prototype advertising platform;
- For tests of this size and nature, we do not generally seek customer consent or consult regulatory authorities;
- No personally identifiable information was processed during the trials. (Indeed, anonymity will be a key feature of Webwise going forward.);
- The ICO did not come to a firm conclusion that the trials entailed even a technical breach of the Privacy and Electronic Communications (EC Directive) Regulations 2003; and
- In any event, the ICO concluded that there was no evidence to suggest there was significant detriment to those customers participating in the trials and decided not to pursue the matter further.

We continue to work closely with the ICO and have kept them informed of developments regarding the forthcoming trial. I should also add that BT has sought extensive legal advice and is confident that Webwise complies with relevant legislation.



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As you know behavioural and contextual advertising is already widely used by leading online brands and search engines, with many tracking web browsing behaviour and serving more relevant adverts as a result. To our knowledge, unlike BT Webwise, none of these provide a clear and simple mechanism to switch them off.

I would like to stress that the privacy and security of our customers' data is of the utmost importance to us - information on users' browsing is completely anonymous. The system doesn't store personally identifiable information, URLs, IP addresses or retain browsing histories. Search information is deleted almost immediately and not retrievable. Webwise does not scan webmail pages so a user's emails on Gmail, Yahoo mail or Hotmail are not scanned. Secure pages like a user's banking websites and web forms like any online registration or sign-up forms are not scanned. No personal information often contained in form fields is therefore ever captured by the system. No data is passed outside BT's network.

BT Webwise is not currently operational. We will shortly commence a technical test involving approximately 10,000 of our BT Broadband customers who will be invited to participate on an opt in basis. Trial details will be announced by BT 24 hours in advance. Invitations for the trial will be issued anonymously to a small proportion of BT's Consumer Broadband customers. For those who are invited to take part in the trial a special webpage will appear in their web browser. This will give customers the opportunity to accept the invitation, decline it, or request more information. Customers can only take part if they accept the invitation; furthermore they are always in control of the system and can choose to switch it on or off as they wish (via the website at www.bt.com/webwise).

BT is committing to providing it's customers with a choice as to whether they want this service or not going forward - it will be optional - our exact plans including methodology for gaining customer consent will only be firmed up after this small initial trial. BT has thoroughly researched Webwise and was encouraged by the very positive consumer response to the service, we have not published our findings thus far but I would be happy to take you through this research in detail if you so wish.

I would be happy to discuss this issue in more detail if that would be helpful.

 BT Retail