



Foreign, Commonwealth & Development Office

Knowledge Management Dept
Hanslope Park
Hanslope
Milton Keynes MK19 7BH

Dr Jonathan Levy

By email to: request-715599-735b9ec1@whatdotheyknow.com

25 January 2021

Dear Dr Levy,

FREEDOM OF INFORMATION ACT 2000 REQUEST – REF: FOI2021-00635

Thank you for your email of 3 January, received 4 January requesting access, under the Freedom of Information Act (FOIA), to information held by the Foreign, Commonwealth & Development Office. You asked for:

“This request is for a specific document referenced but not provided in a previous request - REF: 1206-17

<https://www.whatdotheyknow.com/request/445221/response/1156531/attach/html/3/FOI%201206%2017%20letter.pdf.html>

Please provide a copy of the “1997 ICB (Internet Computer Bureau) Agreement” referenced in this redacted email infra provided in response to request: 1206-17.

<https://www.whatdotheyknow.com/request/445221/response/1156531/attach/html/4/FOI%201206%2017%20digest.pdf.html>”

We confirm that we hold the information you requested.

A review of the material to consider possible release has concluded that the material is withheld under FOIA Section 43 (commercial interests), Section 40 (personal information), and Section 41 (information provided in confidence) as explained below.

Section 43(2) (commercial interests)

Section 43(2) states that *“information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”*

The use of the exemption for Section 43(2) was carefully considered. The factors in favour of disclosure of this information, including the general public interest and greater transparency and accountability, were carefully weighed against the need to allow business-people and commercial organisations the space to conduct their lawful business competitively and without fear of disclosure of sensitive commercial information. We consider that this transparency also poses risks to the protection of commercially confidential information.

Failure to protect such commercially sensitive information would limit the sources of information and interlocutors available to the FCDO and the BIOT Administration. In this

case after such consideration we believe that the public interest in withholding the information outweighs the public interest in its release.

Section 40 (personal information)

Some of the information you have requested is personal data relating to third parties, the disclosure of which would contravene one of the data protection principles. In such circumstances sections 40 (2) and (3)(a) of the Freedom of Information Act apply. In this case, our view is that disclosure would breach the principle that requires data to be processed fairly and lawfully and in a transparent way. It is the fairness aspect of this principle, which, in our view, would be breached by disclosure.

In such circumstances Section 40 confers an absolute exemption on disclosure. We do not therefore have to apply a public interest test.

Section 41 (information provided in confidence)

Section 41 (1) of the Act exempts information if (a) *it was obtained by the public authority from any other person (including another public authority), and (b) the disclosure of the information to the public (otherwise than under the Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.*

The information being withheld was given in confidence, the release of which could be actionable. Although, for the purposes of the FOI Act, Section 41 is an absolute exemption, we can confirm that we have taken into account the public interest defence test inherent within the common law duty of confidence in reaching this decision.

If you would like a review of our decision, or if you wish to make a complaint, please write to the Information Rights Unit, Foreign, Commonwealth & Development Office, WH2.177, King Charles Street, London, SW1A 2AH. E-mail: information.rights@fcdo.gov.uk. You have 40 working days to do so from the date of this letter.

You can apply directly to the Information Commissioner. However, the Information Commissioner will not normally make a decision unless you have first exhausted the complaints procedure provided by the FCDO. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely,

Historical Information Rights Team
Knowledge Management Department

