



Foreign, Commonwealth
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Dr Jonathan Levy

Email to: request-715599-735b9ec1@whatdotheyknow.com

26 May 2021

Dear Dr Levy,

FREEDOM OF INFORMATION ACT (FOIA) 2000: INTERNAL REVIEW: IR2021/03127

Thank you for your email of 10 February requesting an Internal Review (IR) of our response to your request ref FOI2021/00635 as follows:

I am writing to request an internal review of Foreign, Commonwealth & Development Office's handling of my FOI request 'Re: BIOT 1997 ICB (Internet Computer Bureau) Agreement'. The document withheld deals with the creation of CCTLD .IO in 1997. CCTLD .IO is a Generic Country Code Top-Level Domain or gccTLD and refers to those TLDs which are technically "non-restricted ccTLDs" but used like traditional generic TLDs (gTLDs) rather than "country" targeted ones. Use of CCTLD .IO is not restricted to BIOT but has been used commercially internationally by tens of thousands of companies. The current owner is Donuts Inc. which is the parent company of Internet Computer Bureau Ltd (ICB) which it acquired through the purchase of Afiliast Inc. in December 2020. Afiliast Inc. acquired Internet Computer Bureau Ltd. in 2017. It is therefore doubtful that release of a 1997 document would harm Donuts Inc. Release is in the public interest as the ownership of CCTLD .IO is under dispute by the Chagossian people. Further the derecognition of the BIOT entity by the United Nations has placed in question the substantial investments that thousands of Internet based companies have made in ccTLD .IO. The value of the domain and websites easily reaches into the tens of millions of pounds if not many times that.

The FCDO has previously claimed it has no direct interest in CCTLD .IO "There is no agreement between the UK Government and ICB regarding the administration of the .io domain. ICB independently registered the .io domain through the Internet governing process – the Internet Assigned Numbers Authority (IANA) – in the late 1990s. This process is a functional responsibility of the Internet Corporation for Assigned Names and

Numbers (ICANN). The BIOT Administration tasks its telecoms provider to ensure a reliable and secure service. The telecoms provider has in turn asked ICB to ensure that rules are in place to ensure security and good governance of the domain. " "Neither the UK Government nor the BIOT Administration receives revenue from the sale of .io domains, which are administered independently by ICB."

I am writing to confirm that we have completed the Internal Review.

Your original request of 3 January received 4 January asked:

"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>"

Our reply of 25 January confirmed that we held the information you had requested.

Use of exemptions

A review of the information to consider possible release was undertaken and we concluded that the information was exempt from release under FOIA Section 40 (Personal Information), Section 41 (Information Provided in Confidence) and Section 43(2) (Commercial Interests).

On receipt of your request for an internal review, the withheld material was re-reviewed and we concluded as follows:

Section 40

The withheld information relates to personal data of third parties that would breach the first data protection principle, which states that personal data should be processed fairly and lawfully. Section 40(2) and (3A) of the Freedom of Information Act therefore apply. It is the fairness aspect of this principle which, in our view, would be breached by disclosure. We do not therefore have to apply a public interest test.

Section 41

The disclosure of this information would constitute an actionable breach of confidence, which would not be defensible on the basis of the public interest defence test inherent within the common law duty of confidence. This section confers an absolute exemption on disclosure under FOIA.

Section 43(2)

It is acknowledged that there is public interest in the FCDO being open and transparent about its relations with commercial organisations. However, this transparency also poses a risk to the protection of commercially confidential information which, in our view, outweighs the public interest in its release in this instance. There is a need to be able to converse with people in business and commercial organisations without fear of

disclosure of sensitive commercial information.

After review we have concluded that the change of parent company has no bearing on the application of the exemptions to this material. Disclosure of the information would nonetheless be likely to harm the commercial interests of the company. Commercial information was provided in confidence and protection of this sensitive confidential information outweighs the public interest in release as explained above. The ICO upheld the decision to withhold this material in their decision notice of 31 January 2019.

I am therefore content that all the exemptions were correctly applied.

If you would like a further review of our decision, you can apply directly to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, or online at <https://ico.org.uk/make-a-complaint/>.

Yours sincerely,

**Deputy Head,
Historical Information Rights Team**



For information about how the FCDO handles personal information please see our [Personal Information Charter](#)