

16 May 2013

**Royal Mail Group**

Mr Owen Boswarva

By Email: [owen.boswarva@gmail.com](mailto:owen.boswarva@gmail.com)

Information Rights Team  
(Freedom of Information Act)  
2<sup>nd</sup> Floor  
Royal Mail Sheffield  
Pond Street  
SHEFFIELD  
S98 6HR

Tel: 0114 2414215  
[foi@royalmail.com](mailto:foi@royalmail.com)  
[www.royalmail.com](http://www.royalmail.com)

Dear Mr Boswarva

**Re: Freedom of Information Act Request – Internal Review (Our ref DTUP-952HHC)**

I am writing in response to your email dated 18 March 2013 within which you request a review of Royal Mail's handling of your recent request for information under the terms of the Freedom of Information (FOI) Act 2000. We have carried out a thorough review of your request, in line with the FOI Act and the associated Code of Practice, and I am writing to inform you of our decision. I am sorry for the length of time taken to respond to you on this matter. We aim to complete all internal reviews within 20 working days of receiving them or 40 days for more complicated cases. In this case it was not possible to complete the review of your request within 20 days as it was necessary to consider the information in question and relevant public interest factors very carefully.

In your request dated 15 February 2013 you asked Royal Mail to provide the figures redacted from Ofcom's recent review of the Postcode Address File published on 07 February 2013:

*'@RoyalMail pls provide figures redacted from this doc <http://t.co/2uWcuqaB>.'*

In our response dated 15 March 2013 we confirmed that information is held which falls within scope of your request. However, we advised that Royal Mail considered this information to be exempt from disclosure under section 43(2) of the Freedom of Information Act 2000 – *Commercial Interests*. You were advised that the information, if disclosed, would be likely to prejudice Royal Mail's commercial interests. In your email dated 18 March you express your dissatisfaction with our response, stating that you did not believe that an adequate argument had been provided by Royal Mail for the reliance on the section 43(2) exemption after the application of the 'public interest test'. We have therefore reviewed the information we hold and our decision to withhold it from you.

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In respect of the information we hold, it is important to note that an un-redacted copy of the document published by Ofcom is not held by Royal Mail. That document was produced by Ofcom itself. The information held by Royal Mail is data which was provided to Ofcom in response to the regulator's request for information. Following review of the information we do hold, I can confirm that Royal Mail does not hold any information in regards to the redaction made at section 6.20 on page 24 of the document published by Ofcom. This is a figure formulated by Ofcom on the basis of the data provided to them. However, we do hold information which corresponds to the other redactions.

After reviewing this information, we continue to believe that it is exempt from disclosure under section 43(2) of the FOI Act – *Commercial Interests*. Information is exempt under section 43(2) if its disclosure would, or would be likely to; prejudice the commercial interests of Royal Mail. Guidance from the Information Commissioner's Office states that a commercial interest relates to a person or organisation's ability to participate competitively in commercial activity, i.e. the purchase and sale of goods or services.

Royal Mail operates in a highly competitive environment facing direct competition from rival postal operators and delivery companies as well as competition from electronic communications and other media. The information in question provides detail of the different costs associated with PAF activity within Royal Mail's operations. This information, including the estimated time spent by delivery staff on PAF activity, would be advantageous to rival postal operators; informing them of cost and time elements which they would need to include in planning their own services and giving them an unfair insight into Royal Mail's business operations. We believe that rival companies are likely to utilise any available information about a competitor. This is information about Royal Mail's operations which could not be accessed elsewhere or reproduced by rival companies themselves. Disclosure of the information would therefore place Royal Mail at a commercial disadvantage and, in our opinion, be unfair – Royal Mail's competitors would not be required to release details of their own operational costs and activity. On this basis we believe that the exemption under section 43(2) is engaged for all of the information in question.

Revealing details of specific costs would also be likely to have a detrimental impact on Royal Mail's purchasing position. Some of the costs in question relate to services provided by external suppliers and Royal Mail may need to outsource other activity in the future. Confirming details of current costs would weaken Royal Mail's position when trying to obtain the best possible price from potential suppliers and effectively hinder Royal Mail when negotiating future contracts. Furthermore, whilst it is of course correct that the consultation document and a report by the PAF advisory board state the belief that the development of an alternative to PAF is unlikely in the foreseeable future, it still remains a possibility that an alternative could be developed. Royal Mail's costs could clearly be utilised by anyone wishing to develop an alternative to PAF. Therefore, after reviewing your request, we continue to believe that the exemption under section 43(2) does apply.

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Section 43(2) of the FOI Act is a qualified exemption and therefore subject to the 'public interest test'. We have therefore considered whether, despite the application of this exemption, there is an overriding public interest in the release of the information Royal Mail holds. We recognise that there is public interest generally in transparency and accountability. There is public interest in the management and operation of Royal Mail as a publicly owned company and there is of course public interest in the availability of datasets for public use. We recognise that there are people who believe that PAF data should be freely available for any use and that release of the costs information would arguably inform public debate in this area. However, this has to be balanced against the genuine public interest in protecting fair competition and Royal Mail's commercial interests. We also believe it is appropriate to consider the extent to which disclosure would benefit the public when considering the total costs information which is already available.

In your email you asked us to consider as part of the internal review, the effect of the redactions on the credibility of Ofcom's public consultation process as a strong factor in favour of disclosure. The redactions were of course made by Ofcom and we believe the regulator itself would be best placed to consider the credibility of its consultation process. However, we believe it is important to recognise that Royal Mail already publishes total PAF costs within regulatory financial statements which are freely available from our website [www.royalmailgroup.com](http://www.royalmailgroup.com). PAF revenue, costs and profit have been reported since 07/08. The public therefore already has access to total cost information and total PAF costs were included in the Ofcom consultation document.

An objective of the consultation is of course for Royal Mail to be able to continue to recover the costs of PAF. The requested information could therefore inform the public in more detail as to how those costs break down and we recognise that there is a public interest in presenting a 'full picture'. However, this has to be balanced against the genuine public interest in favour of maintaining the exemption. We also believe it is appropriate to consider the role of the regulator; whose principle duty is to further the interests of the public in relation to communications matters and to further the interests of consumers in relevant markets. The regulator therefore acts on behalf of the public in this respect, with the calculation of Royal Mail's costs, and the published reports, being verified by them.

The objective of the Government, and a duty of the regulator, is to secure the provision of a universal postal service. Royal Mail has developed PAF over time and it is integral to its operations. The Postal Services Act ensures that PAF is available to anyone who wants to use it on terms that are reasonable. Ofcom has the power to direct Royal Mail as to what terms (including fees payable) are reasonable – the regulator again acts on behalf of the public in this respect. New licenses will make it possible for more people to access and use PAF. RM and BIS recently announced the planned introduction of the PAF<sup>®</sup> Public Sector Licence which will make it easier for Public Sector organisations to make greater use of PAF. The Developer License enables developers to use sample PAF data for 12 months for the

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purposes of developing software solutions. Some licensed Solutions Providers also provide access to free address sample data. We believe that public interest in access to, and use of, the information is being addressed through existing measures.

When considering the public interest factors against disclosure, we believe that there is significant public interest in the commercial success of Royal Mail, both as a publicly owned company and the designated universal service provider. There is strong public interest in maintaining normal market forces and a 'level playing field' for commercial activity. It would not serve the interests of the public to place any company at a commercial disadvantage, particularly a publicly owned company or one providing important public services, by giving rival companies an unfair advantage over them.

In your email you suggested that, as a public body, Royal Mail benefits from the investment of public funds. You argue that there is public interest in ensuring transparency and accountability for the use of public money; particularly '*in the context of monopoly arrangements such as PAF, where costs are less likely to be constrained by competition pressures*'. It is important to recognise that Royal Mail is funded by the revenue it generates; past loans received from the Government have been on commercial terms and the Address Management Unit specifically is self-financing and does not receive public funding.

You also suggest that any prejudice would not be significant enough to impact on the universal service: '*It strains credibility to suggest that the Universal Service would be put in jeopardy by increased competition for 0.3% of Royal Mail's turnover*'. We would disagree completely that this is not significant to Royal Mail. Royal Mail is a commercial company operating on a profit and loss basis. It relies on all revenue generated by its products and services to support the continued provision of the universal postal service. We continue to believe that there is very strong public interest in maintaining a one price goes anywhere collection and delivery service, six days a week, for the public. Again; all revenue generated is significant to Royal Mail and any losses have an impact on our ability to provide the postal service to the standard required.

In your email dated 18 March you stated that you did not consider that the public interest in each piece of information to have been considered separately. We believe that a 'level playing field' for commercial activity and preventing Royal Mail being placed at a commercial disadvantage, are significant factors which apply to all of the information within scope of your request. We do not believe that it would serve the interests of the public by providing rival companies with an unfair advantage.

As a publicly owned company we believe that there is public interest in ensuring that Royal Mail is able to negotiate the best possible price for services provided by third parties. It is vital for Royal Mail to obtain the best possible commercial terms. It would not therefore, serve the interests of the public to potentially prejudice Royal Mail's commercial relationships and future negotiating position.

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On balance, whilst we recognise that there is public interest in the information requested, we believe the interests of the public are met by the information already published in relation to PAF, and the role of the regulator which is in place to ensure the interests of the public are met by the products provided by Royal Mail. We consider that any detrimental impact on Royal Mail Group's commercial interests does have an effect on Royal Mail's ability to provide the universal postal service as it is, which is clearly against the public interest. Therefore we still believe that the public interest lies in withholding the information you requested on this occasion.

I am sorry that we could not satisfy your request on this occasion but hope that this response suitably explains our reasons. If you remain dissatisfied with our handling of this request you do of course have a right to appeal to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
WILMSLOW  
SK9 5AF  
Telephone: 01625 545 700  
[www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

Yours sincerely

Kate Fearn  
Casework and Complaints Manager  
Company Secretary's Office