



Department  
for Transport

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Mr I Seager

By email: [ics@seager.aero](mailto:ics@seager.aero)

27 January 2021

Dear Mr Seager,

### FOI REQUEST - F0019182

Thank you for your information request dated the 23<sup>rd</sup> November 2020. You requested;

***‘Copies of internal advice related to the current Electronic Conspicuity (EC) Rebate. Any correspondence (emails/letters/etc) between the CAA and DfT on this subject, and any advice, internal or external, relating to the UK's policy on EC.’***

On 1 December you clarified that your request relates to information on or after 1 April 2020. In an email of 16 December 2020, the Department for Transport (the Department) advised that further time would be required to consider your request, specifically to undertake a Public Interest Test.

### **Request for Correspondence between the CAA and the Department**

The Department holds information that is relevant to your request. The information being disclosed, with some personal details of individuals redacted, is outlined below

- Grant letter of 29 April 2020
- Grant letter of 6 October 2020
- Email of 2 November 2020.

The names and direct contact details of some departmental junior officials, that is staff below the senior civil service, and those of some external stakeholders are being withheld from the letters and email in reliance on the third party personal information exemption at section 40(2) and (3A)(a) of the Freedom of Information Act (FOIA). These individuals are not in public facing roles and therefore have a reasonable expectation that their names and direct contact details will not be placed into the public domain. To do so would be unfair and would contravene current Data Protection legislation.

The remainder of the information in scope is being withheld under section 35(1)(a) of the FOIA, which provides an exemption from disclosing information held by a government department that relates to the formulation or development of government policy.

Your request covers two areas; i) the implementation of a rebate scheme in the 20/21 financial year and ii) UK policy towards Electronic Conspicuity (EC).

Information on the rebate scheme including the eligibility criteria, timescales and level of funding available to individuals is set out on the CAA website; [Electronic Conspicuity devices | UK Civil Aviation Authority \(caa.co.uk\)](https://www.caa.co.uk)

Some correspondence from the Department to the CAA concerning the establishment of the scheme is disclosed. The Department hold additional correspondence between the Department and the CAA on the establishment of the scheme and its operation, including Annex A to the Grant letter of 29 April 2020 which is being withheld in reliance on section 35(1)(a) as mentioned above.

Section 35(1)(a) is a qualified exemption and is therefore subject to a public interest test. This requires us to balance the public interest arguments for disclosing the information, against those for withholding it.

## **EC Rebate Scheme**

### **Public Interest Factors for Releasing**

We recognise the public interest in understanding funding decisions made by Government departments, and as such we will publish, following the end of the 2020/21 financial year, further information on the level of funding used plus the number of successful and unsuccessful applications to the scheme.

We do not intend to publish details on applicants nor products purchased using the scheme to prevent the disclosure of commercially sensitive information.

Disclosure of the information we hold also contributes to the Government's wider transparency agenda.

### **Public Interest Factors for Withholding**

Information on the operation of the grant scheme since its establishment may be of interest to the public. However, the policy is still live and we consider there is a legitimate need for the Department and the CAA to have a safe space to be able to discuss details of the scheme in private as part of wider policy development on EC. Any material changes to the scheme during its operation will be communicated publicly, including on the CAA website.

Officials would be reluctant to provide advice and their views if this information was routinely placed into the public domain ahead of any final decisions and announcements.

On balance we consider that the public interest factors for withholding some information on the scheme outweigh those factors for releasing.

## **Request for information on the "UK policy on EC"**

As stated on the CAA's website; *"in parallel to the grant scheme, work will continue on a long-term strategy for EC in the UK"*. This work involving the CAA and the Department is ongoing policy development. Whilst the Department holds information of relevance to your request this is also being withheld under the section 35(1)(a) exemption. We have outlined the relevant public interest factors below:

### **Public Interest Factors for Releasing**

We recognise there is a high level of interest in the aviation sector on the future use of EC, and that disclosure of information may be of assistance to pilots, UAS operators,

manufacturers and others in developing their future plans. Disclosure would also contribute to the government's wider transparency agenda.

### Public Interest Factors for Withholding

In recognition of the competitive market between product manufacturers, it is important for reasons of fairness to all parties that information be released only where the Department determines any change in policy.

As a matter of routine, the Government both internally and with the CAA exchange views on live policy issues. The ability to hold these exchanges in private in a safe space is important to allow the development, testing and challenging of ideas before decisions are taken. Prematurely disclosing information on such discussions may inhibit effective policy making. Good government depends on good decision making and this needs to be based on the best advice available and a full consideration of all the options without fear of disclosure.

On balance, we determine that the public interest is best served by withholding information pertaining to live ongoing discussions within Government and between Government and the CAA on EC.

The Government recognises that EC technology is developing. In addition, the nature of the aviation sector, including the number of manned and unmanned aircraft using UK airspace, may change over time. As a result, we are continuing to develop our policy towards EC.

In the event of any future change in Government policy on EC, this would be communicated clearly to all affected parties, and if required a consultation process would be undertaken in advance of any change being implemented. No inference should be drawn from this letter on any future intent of the Government.

### **Appeals procedure**

If you are dissatisfied with the way we have responded to or handled your request, you have the right to ask for an internal review. These should be submitted within two calendar months of the date of this letter and addressed to the FOI Advice Team at [FOI-Advice-Team-DFT@dft.gov.uk](mailto:FOI-Advice-Team-DFT@dft.gov.uk).

Please quote the reference number **F0019182** above in any future communications.

If you ask for an internal review and are still not content with the outcome, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted via their online form: <https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>

Yours sincerely,

Greg Easter  
Aviation Directorate, DfT