



University of East Anglia

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[Redacted]

10 November 2016

Dear [Redacted]

Freedom of Information Act 2000 – Information request (ref: FOI_16-217)

We have now considered your request of 04 November 2016 for information relating to the amount and nature of expenditure relating to marketing activities at UEA in the 2014/15 and 2015/16 financial years.

Our response is on page 4 of this letter, together with a copy of your request.

On this occasion, it is not possible to provide all the requested information. The Act contains a number of exemptions that allow public authorities to withhold certain information from release. We have applied the following exemption(s) to part of your request.

Exemption	Reason
s.43(2), Prejudice to commercial interests	Disclosure of information would, or would be likely, to prejudice the commercial interests of a person as defined by the Act
s.44(1)(a), Prohibitions on disclosure	Disclosure is prohibited by or under any enactment

Section 43(2) exemption

We have applied this exemption to questions 1 and 2 of your request. It is our belief that release of this information would prejudice the commercial interests of the University.

As an exempt charity under the Charities Act 2011, the University has a duty to make effective use of its financial resources.

To compete in the Higher Education market, with leading UK and international universities, the University must ensure that information that would be strategically useful to its competitors is not placed in the public domain. Release of the total spent on marketing and the amount spent with various web-based services would potentially compromise the University's ability to attract high quality students that allow it to be a progressive and sustainable institution. The University's position would be severely compromised if it were to release information which would benefit its competitors.

The Information Commissioner's Office has established a multi-criteria test for assessing whether a section 43(2) exemption applies¹ and we address each criterion in turn.

Student recruitment is undoubtedly a commercial activity for all universities. The University's success in recruiting students, and the manner in which we do so, directly affects both our reputation and financial position. It follows that information about how the University markets itself to potential students can readily be seen as commercially sensitive.

The UK Higher Education sector is a highly competitive environment. Recent regulatory changes, such as the lifting of the cap on university places in England, have increased competition between institutions. Universities all seek to recruit the best students from a limited pool of prospective UK and international applicants, as well as competing to attract high quality staff, research funding and accreditation.

With regard to the requested marketing information, UEA, in common with other universities, undertakes various advertising activities with the aim of promoting the institution to our target markets, at home and overseas. This is a vital activity that directly affects our ability to compete within the sector.

The manner in which we direct funding to create a comprehensive and engaging marketing strategy and organise our marketing activities provides us with a possible advantage compared to those competitors who undertake this activity less effectively. We do not share any details of our tactical marketing activities or funding with competitors, particularly in key areas of marketing interest such as social media and the internet more generally. Even the release of a total figure for marketing spend would provide competitors with the insight to match and potentially exceed our activities.

We would also consider it quite likely for such prejudice to our interests to occur given the sensitivity of the requested information, the consistent treatment of it as commercially sensitive by not only UEA but other Higher Education institutions, and the degree to which the recruitment of the number and value of applicants is now critical to any university's success.

The application of this exemption requires an examination of the public interest in disclosure as opposed to that in non-disclosure. There is no doubt that there is a legitimate public interest in knowing the amount and way in which public funds are spent in this respect, both to further the transparency and accountability of public authority activities.

We would counter that there is also a public interest in protecting the ability of institutions to compete on a level playing field and to ensure that there is fair competition between universities for prospective students. By protecting the University's marketing information from public disclosure we are acting in line with established practices across the sector and maintaining this fair competition. Additionally, to disclose the requested information would prejudice this institution's competitive and commercial position, and it is difficult to see how this could be in the public interest.

On balance, we therefore believe the public interest lies in withholding the requested information.

Section 44(1)(a) exemption

Section 44 (1)(a) permits the University to withhold information if its disclosure would be prohibited by law. Under the Competition Act 1998, the University must exercise caution in releasing any information of a strategic nature such that it may constitute

¹https://ico.org.uk/media/for-organisations/documents/1178/awareness_guidance_5_v3_07_03_08.pdf

an exchange that would infringe Competition Law by placing it in the public domain where it could potentially be accessed by other Higher Education Institutions.

Competition Law is seen to be infringed if parties do not actually agree on an anticompetitive act but exchange confidential information that would lead competitors to understand how and what benchmarks have been set. This would include the release of strategic, or strategically useful, information. It is therefore necessary to withhold strategic information that is not already in the Public Domain and would include confidential information about marketing strategies.

The information requested in questions 1 and 2 is undoubtedly strategically useful. As noted above, such information is not made public, largely because we believe it could aid competitor institutions to our own detriment. The free competition between institutions would therefore be adversely affected in breach of the provisions of the Competition Act.

Section 44 is an absolute exemption and the University is not required to consider the public interest in the release of this data.

We hope this response will meet your requirements, however if you are not satisfied you have the right of appeal. If you wish to appeal, please set out in writing your reasons for appealing and send to the above address. You must appeal within 60 calendar days of the date of this letter. Any appeal received after that date will not be considered nor acknowledged. This policy has been reviewed and approved by the Information Commissioner's Office.

You also have a subsequent right of appeal to the Information Commissioner's Office. Further information is available on their website:

https://ico.org.uk/Global/contact_us, or by telephone on 0303 123 1113.

Please note that any material over which UEA has copyright is released on the understanding that you will comply with all relevant copyright rules regarding reproduction and/or transmission of the information provided.

Please quote our reference given at the head of this letter in all correspondence.

Yours sincerely

Dave Palmer
Information Policy and Compliance Manager
University of East Anglia

Response to Freedom of Information Act 2000 request (FOI_16-217)

1. Please state how much your university spent on marketing in (i) the 2014/15 financial year and (ii) the 2015/16 financial year?

2. In each of these years please state how much was spent with (i) google, (ii) twitter and (iii) Facebook?

[Information exempted pursuant to s.43(2) and 44(1)(a), Freedom of Information Act]

The information requested in questions 1 and 2 above is exempted from release for the reasons noted in the letter above.

3. In each of these years please state how much was spent in advertising/promotion of your institution using professional sports teams? Please state the name of the team, how much was spent and what exactly was provided for this fee.

There were no funds (£0.00) spent in the 2014/15 and 2015/16 financial years in advertising and/or promotion using professional sports teams.