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by e mail

Dear XXXXXXXX,

Freedom of Information request

Thank you for your information request of 13 September. You requested information about meetings between the Secretary of State and Bombardier since 4 September and material relating to High Speed 2 which relates to the firm in any sense.

Your request has been considered under the Freedom of Information Act 2000.

I am writing to confirm that the Department does hold the information you requested but has decided that some of this information cannot be disclosed for the reasons given below.

The information that can be released is that, in respect of the Secretary of State, one meeting has been held with representatives of Bombardier to discuss rolling stock on Thursday 6 September. This was a planned meeting which was arranged before the present Secretary of State took up his post on 4 September.

In addition, Bombardier wrote to the Secretary of State on 10 September and the Secretary of State replied on 28 September. A copy of the correspondence is enclosed.

The briefing for that meeting is being withheld as it falls under the exemptions in sections 35 (formulation of government policy) and 43 (commercial interests) of the Freedom of Information Act 2000.

In applying these exemptions we have had to balance the public interest in withholding the information against the public interest in disclosure.

The attached annex A to this letter sets out the exemptions in full and details why the public interest test favours withholding the information.

In respect of High Speed 2 there have been no discussions or documents which fall within the scope of the request.

Please note that for the purposes of information requests, HS2 Ltd is considered as a separate public authority. Therefore this response should not be considered as answering for any information which HS2 Ltd may hold. You can make requests of HS2 Ltd by emailing HS2enquiries@hs2.gsi.gov.uk.

In keeping with the spirit and effect of the Freedom of Information Act, all information is assumed to be releasable to the public unless exempt. A copy of this response and the information provided may now be published on our website together with any related information that will provide a key to its wider context.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's Information Rights Unit at:

Zone D/01
Ashdown House
Sedlescombe Road North
Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter, please contact the DfT Press Office on **020 7944** [REDACTED], quoting the reference number above in any future communications.

Yours sincerely,

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Your right to complain to DfT and the Information Commissioner

You have the right to complain within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex A

Exemption in full	
<p>Section 35 (development of government policy) (1) (a)</p> <p>1. Information held by a government department or by the National Assembly for Wales is exempt information if it relates to:</p> <p>(a) the formulation or development of government policy</p>	
Public interest test factors for disclosure	Public interest test factors against disclosure
<p>Government policy is in favour of transparency.</p> <p>The particular interest in scrutiny of the Department's relationship with Bombardier Transportation.</p>	<p>Publication would inhibit the free and frank provision of advice and the free and frank exchange of views for the purposes of policy deliberation;</p> <p>There is a need to provide advice to Ministers and given the high public profile of Bombardier and DfT there is a risk that publication would prejudice future discussions;</p> <p>Premature disclosure of ideas and options may end up closing off better alternatives;</p> <p>The data is commercially sensitive. Rail companies and suppliers in the UK compete with other public transport services and suppliers and making the information available would provide unfair commercial advantage for competitors.</p> <p>If commercial companies feel that the Department is not treating information they provide in confidence with care, there is a risk that they will stop supplying any information that they are not obliged to. This would have an impact on DfT's ability to carry out its policy and planning functions, and would limit the information available to the Department when value for money decisions are being made.</p>
<u>Decision</u>	
<p>Not to disclose the briefing for the meeting between Bombardier and the Secretary of State on the basis that it would inhibit the development of Government policy.</p>	

Exemption in full	
43(2) Commercial interests (2) 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).	
Public interest test factors for disclosure	Public interest test factors against disclosure
<p>Government policy is in favour of transparency.</p> <p>The particular interest in scrutiny of the Department's relationship with Bombardier Transportation.</p>	<p>Release of the information could prejudice DfT and Bombardier's commercial positions for future rolling stock procurements.</p> <p>Any competitive procurement of new rolling stock would be subject to the normal procurement rules. As a result details would be published in due course.</p> <p>The data is commercially sensitive. Most rail companies and suppliers in the UK compete with other public transport services and making the information available would provide unfair commercial advantage for competitors.</p> <p>If commercial companies feel that the Department is not treating confidential information they provide with care, there is a risk that they will stop supplying any information that they are not obliged to. This would have an impact on DfT's ability to carry out its policy and planning functions, and would limit the information available to the Department when value for money decisions are being made.</p>
<u>Decision</u> <p>Not to disclose because to do so would damage DfT and/ or Bombardier's commercial positions in respect of future rolling stock plans.</p>	