

11 February 2014
FOIA reference: F0001791

Dear XXXX

I am writing in respect of your recent request of 20 January 2014, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

“You used to previously publish a publication ATOL BUSINESS in which you collate the top 10 ATOL licensed businesses with passengers carried which you kindly provided me with copyright permission to use in return for a copy of my book deposited in your library.

Now that you have dispensed with that publication and moved to a database, it is not possible to collate that data although your library indicated it was available and if I was unable to get any assistance to route my request via the FOI route.

I am simply looking for a table of data that records the top 10 licencees you have and to obtain to once again publish that.

I used to deal with the person responsible for ATOL BUSINESS but that is no longer possible.

If my request does not fall within the FOI remit or it is inappropriate, please let me know as my two previous requests did not get fulfilled”.

Our response:

In assessing your request in line with the provisions of the Freedom of Information Act 2000 (FOIA), we are able to provide the information below.

As you have noted, the CAA no longer publishes ‘ATOL Business’ and details of the actual passengers carried by each of the 10 largest licence holders is not made publicly available.

Information obtained by the CAA in the course of exercising our functions relating to the ATOL scheme is furnished to the CAA pursuant to the Civil Aviation (Air Travel Organisers’ Licensing) Regulations 2012, as amended (‘The ATOL Regulations’).

Civil Aviation Authority

Aviation House GW Gatwick Airport South Crawley West Sussex England RH6 0YR www.caa.co.uk
Telephone 01293 768512 rick.chatfield@caa.co.uk

The release of information that is supplied to the CAA pursuant to the ATOL Regulations is prohibited from disclosure by Section 23 of the Civil Aviation Act 1982. Under Section 23, any information which relates to a particular person or organisation, and has been furnished to the CAA in pursuance of any provision of the Civil Aviation Act to which Section 23 applies, must not be disclosed by the CAA unless such disclosure is authorised by one of the exceptions contained in Section 23 itself.

Section 23(6) defines those provisions to which Section 23 applies, which include Section 71. Section 71 provides that regulations may be made by the Secretary of State to ensure that a person does not make available accommodation for the carriage of persons on flights unless they are either the operator of the aircraft concerned, or comply with the terms of a licence issued under such regulations. The ATOL Regulations are regulations made by the Secretary of State pursuant to Section 71 of the Civil Aviation Act, and therefore the disclosure of information provided to the CAA in pursuance of the ATOL Regulations is prohibited by Section 23.

Section 44(1)(a) of the FOIA provides that information is exempt if its disclosure is prohibited by, or under, any enactment and Section 23 of the Civil Aviation Act is such a statutory prohibition. Accordingly, the obligations of the CAA to comply with Section 23 are unaffected by the FOIA and information provided to the CAA in relation to the granting of an ATOL licence is exempt from release under Section 44(1)(a) of the FOIA (a copy of this exemption is enclosed).

We are, however, able to provide the table below which sets out the aggregated data for the top 10, the remainder, and in total. The data shows millions of ATOL-protected departing passengers for the year ended September 2013.

10 largest ATOL holders	11.0
Other ATOL holders	7.9
Total	18.9

Also, the relative size of the largest companies can be established using the CAA's online facility at the link below. This produces licensable transactions (which is public information), rather than actual departures.

<http://www.caa.co.uk/application.aspx?catid=490&pagetype=65&appid=4>

If you wish to publish this information, you will need to enter into a copyright agreement with the CAA. Therefore, please find attached a licence agreement to use CAA material. The agreement should be signed and returned to me within 14 days. Once we have received the signed agreement we will sign it and provide you with a copy.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Mark Stevens
 External Response Manager
 Civil Aviation Authority
 Aviation House
 Gatwick Airport South
 West Sussex
 RH6 0YR

mark.stevens@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
www.ico.gov.uk/complaints.aspx

Should you wish to make further Freedom of Information requests, please use the e-form at <http://www.caa.co.uk/foi>.

Yours sincerely

Rick Chatfield
Information Rights and Enquiries Officer

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

Freedom of Information Act: Section 44

(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it-

- (a) is prohibited by or under any enactment,
- (b) is incompatible with any Community obligation, or
- (c) would constitute or be punishable as a contempt of court.

(2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

Section 23 of the Civil Aviation Act is such a statutory prohibition. Accordingly, the obligations of the CAA to comply with Section 23 are unaffected by the Freedom of Information Act.

Under Section 23, information supplied to the CAA in connection with its regulatory functions and which relates to a particular individual or organisation must not be disclosed by the CAA unless such disclosure is authorised by one of the exceptions contained in Section 23 itself.