

**Annex B – FOI18-2188– Public Interest Test**

<p><b>FOI18-2188:</b></p>	<p><b>We understand that you have commissioned a report on the safety case for the Chilterns Tunnel, a long standing concern of this society. We request a copy of the report, and any related correspondence between HS2 Ltd and its authors, under the Freedom of Information Act.</b></p>
<p><b>Date:</b></p>	<p><b>11 December 2018</b></p>
<p><b>EIR Regulation: 12(5)(e) Confidentiality of commercial or industrial information</b></p>	
<p><b>Factors supporting disclosure</b></p>	<p><b>Factors supporting non-disclosure</b></p>
<ul style="list-style-type: none"> <li>• Compliance with EIR public authority obligations to be transparent, to assist information applicants with their requests for information and to release relevant information to the public in a timely manner.</li> <li>• There is also public interest in transparency and accountability to ensure that public funds are being used effectively and that the department is getting value for money in the goods and services it purchases and/or the projects it funds.</li> </ul>	<ul style="list-style-type: none"> <li>• Some of the withheld information pertains to live and future matters for the building of the Chiltern’s tunnels which includes designs of ventilation shafts, escape routes, along with the analysis of other international systems. Therefore the information relates to legitimate economic interests of the third party, it outlining key workings, approaches and designs that could be used by competitors to gain an advantage in the market place.</li> <li>• HS2 Ltd has a duty to ensure that the competitive position of companies in their particular market is not disadvantaged. It would not be in the public interest to disclose sensitive information about a particular company if that information would be likely to be used by competitors to gain a competitive advantage.</li> <li>• Disclosure of commercial information to the public would enable competitors to understand the approach taken by the supplier for other competitive bids especially in terms of strategy.</li> <li>• There is a public interest in HS2 Ltd being able to maintain the trust and confidence with contractors in order to encourage</li> </ul>

	contractors to outline all potential options, designs and safety measures. Releasing this information may damage the trust such companies place in HS2 Ltd as a client and may discourage them from sharing details in future. This would be to the detriment of ensuring that HS2 is developed with the best advice and services.
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**Conclusion:** The information requested relates to confidentiality of commercial or industrial information therefore Regulation 12(5)(e) of EIR can be considered.

Under ICO guidance we understand that we must consider whether it is reasonable in all circumstances to withhold this information before considering whether there is a public interest in disclosing it. We appreciate there is public interest in the general principles of accountability and transparency. However this needs to be weighed against the public interest in avoiding any unwarranted prejudice to commercial interests of third parties.

On balance we find that due to the likelihood of prejudice to the third party's commercial interests, and the potential detriment in ensuring HS2 is developed with the best advice and services, that the public interest in the maintaining the exemption outweighs the public interest in disclosure of the withheld information.