



Andrew Poole
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By email only to: Andrew.Poole@governmentlegal.gov.uk

Dear Sir,

Re: R ([REDACTED]) v Secretary of State for International Trade

Thank you for your letter of 12 August 2020.

We have noted your intention to reply to our letter dated 6 August 2020 by 11 September 2020. We do not accept such a prolonged delay whilst violent suppression of peaceful protest by US security forces continues to be widespread. A few examples from the last couple of weeks include Portland¹, Detroit², Ferguson³, and Seattle⁴, but the last few days have seen matters escalate dramatically, after police repeatedly shot an unarmed black man in Wisconsin, reportedly leaving him paralysed. This has triggered further protests, which police have suppressed using rubber bullets, tear gas and smoke bombs⁵. Your client needs to suspend both pending and extant licences now, to obviate the risk of exported equipment contributing to further abuses, as per our letter of 6 August 2020.

Moreover, as noted in our letter of 6 August 2020, the scheduling of the first court hearing in the prosecutions of the police officers responsible for the killing of George

¹ <https://www.theguardian.com/us-news/2020/aug/13/portland-protests-police-federal-courthouse>

² <https://eu.freep.com/story/news/local/michigan/detroit/2020/08/24/detroit-protesters-detroit-police-turf-war-black-lives-matter-arrests/3427699001/>

³ https://www.stltoday.com/news/local/metro/memorials-protests-in-ferguson-on-the-sixthanniversary-of-michael-browns-death/article_7a86a9be-220f-5279-a758-81fec3f029f8.html

⁴ <https://edition.cnn.com/2020/08/17/us/seattle-riot-protesters-arrested/index.html>

⁵ <https://www.bbc.co.uk/news/world-us-canada-53917170>

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Floyd on 11 September 2020 (and the likely flash point with counter-protests on that date, given its obvious significance) mean that we require your response well before this date so that our client can secure the court's intervention in advance if your client refuses to take the steps requested. Please therefore respond by **2 September 2020**.

Further, your letter **enclosed** an updated Table of Extant Licences and Pending Licence Applications. We note that no material details of the pending licence applications have been provided on the basis that they are "*yet to be published as Official Statistics and therefore further details cannot be released.*" These licence applications are directly relevant to these proceedings, since the Defendant's decision to recommence approvals was taken in light of these applications and in the knowledge that these applications and applications like them would be eligible for approval. We do not understand you to dispute their relevancy.

The publication of official statistics does not determine whether information is disclosable within judicial review proceedings, and there is no other valid basis for withholding the details of these licences. Disclosure may be made without undermining commercial confidentiality (which cannot in any event be a factor as the information is to be published in due course). It may also be made on a confidential basis if required, though this does not appear to be required here. Please therefore provide the details of these licences in the same format as the approved licences within the next 7 days (by 2 September 2020).

The withholding of this information underlines our client's concerns as to the Defendant's candour in pre-action correspondence. We await your response on that along with the other points put to you in our letter of 6 August 2020.

In view of the continuing delay, and to avoid further delay in the event that your client refuses to reconsider the decision to recommence approvals, we seek your client's agreement now to costs capping in these proceedings, which are plainly brought in the public – not private – interest and concern an issue of real importance. Our client has no funds of her own and has crowdfunded £8,630.00 for these proceedings through significant effort. These funds are to fund both her own legal team's costs in relation to the preparation of proceedings and post-issue as well as her inter-partes liability at the pre- and post-permission stages.

We therefore seek your client's agreement to a Costs Capping Order should these proceedings obtain permission for judicial review and, pre-permission, to limit their costs to £3,000.00. Please confirm your client's position in your response.

Yours faithfully



DEIGHTON PIERCE GLYNN