

Ofcom reference: 1-117854021

18 June 2009

Mr P Foomer

By email: request-12507-03be014e@whatdotheyknow.com

ELEANOR BURKE
Content & Standards

information.requests@ofcom.org.uk

Dear Mr Foomer

Freedom of Information: Right to know request

Thank you for your request for information regarding subliminal broadcasting. Ofcom received your request on 28 May 2009 and has it considered under the Freedom of Information Act 2000 ('the Act').

You asked:

"Please inform me of any subliminal broadcasts transmitted on any the UK's television or radio channels, with dates and times.

Please inform me of the shortest permissible video sequence duration allowable within any television broadcast."

In answer to the first part of your request:

I am writing to advise you that this information you requested is not held by Ofcom.

- Ofcom does not monitor the broadcasts of all its radio and television licensees. Therefore we would not be able to provide you with a conclusive answer to the question "Please inform me of any subliminal broadcasts transmitted on any of the UK's television or radio channels, with dates and times".
- However, we can confirm that in relation to the broadcast issues considered by Ofcom (either as a result of a complaint from a member of the public, or through an investigation instigated by itself) or by its predecessor bodies, the Independent Television Commission and the Radio Authority, a broadcaster has never been found in breach of the Ofcom Broadcasting Code ('the Code') or any predecessor codes for transmitting subliminal messages.

In relation to the second part of your request:

The Code sets no limit on the duration of a broadcast image. We would consider any complaints received in relation to subliminal messaging on a case-by-case basis against rule 2.12 of the Code –

- “Broadcasters must not use techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds without their being aware, or fully aware, of what has occurred.”

The full Broadcasting Code can be found at: <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>.

You should ensure that when using the provided information in any way, including publishing the information, you comply with all relevant legislation. For example, the information provided may be protected by copyright under the Copyright, Designs and Patents Act 1988 (as amended). If in doubt, please seek independent legal advice. For Ofcom’s policy on copyright and related issues, please refer to our website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>.

If, having read this information, you have any queries, please let me know. Please quote the reference number above in any future correspondence.

Yours sincerely



Eleanor Burke

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case, but we aim to conclude all internal reviews within 2 months. If you wish to request an internal review, you should contact:

Graham Howell
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

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