



Information Policy & Compliance

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Mr Ganesh Sittampalam

[request-13544-295e9564@whatdotheyknow.com](mailto:request-13544-295e9564@whatdotheyknow.com)

12 October 2009

Dear Mr Sittampalam,

**Request for Information – RFI20091098**

I write further to my letter of 16 September 2009.

Please find attached the second and final set of documents that we are disclosing in respect of this request – namely, the contract between ourselves (the BBC) and Capita Business Services Ltd. ('Capita'). Please note that the main contract document is in consolidated form – i.e. it is a version that has been amended to reflect all the formal variations that have been agreed by the parties since it was originally signed. Two appendices are also attached for your information: each forms part of the contract, but cannot be incorporated into the consolidated document for practical reasons.

Please note that, as you were forewarned would be the case in my letter of 9 June, various parts of the contract document have been redacted. This is because we consider in each case the information contained therein to be exempt from disclosure under the terms of the Act. As you will see, each instance of redaction has been annotated to indicate which exemption has been applied. In the vast majority of cases, the exemption used is that which relates to the protection of commercial interests, section 43.

Section 43 states that information will be exempt under the Act if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it). In the case of each redaction indicated, the BBC is of the view that the release of the information would be prejudicial to either its own commercial interests, or those of Capita, or both, because to do so would reveal details which were the subject of significant negotiation; and/or would reveal details about our suppliers services and methodologies, the likes of which are not available on its competitors; and/or would reveal market sensitive information which would be of benefit to competitors in any future tendering process for such services.



Since section 43 is a qualified exemption, I am required by section 2(2) of the Act to consider the public interest factors in this case. This I have done under the heading '*Why information has been withheld*' below.

Some information has also been withheld under section 31, which relates to law enforcement (specifically, because disclosure would, or would be likely to, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, the collection of the licence fee and the BBC's ability to discharge its public functions in respect of such matters). This is because in each case the redacted segments contain information which could be useful to people attempting to evade the licence fee. Again, the use of this exemption must be qualified, and accordingly, the justification for its use here is dealt with under '*Why information has been withheld*' below.

Finally, on a small number of occasions, section 40(2) has been cited. This is because, in each case, the information redacted constitutes personal data. In most instances, the data concerned is the name of an individual no longer working for or with TV Licensing. These individuals would no longer expect their personal data to be disclosed in this context and associated with TV Licensing, and therefore we consider that to do so would be unfair to them. Signatures of individuals comprise the remaining redactions made under section 40(2); these have been removed because we consider that the risk to the individuals concerned of fraud (i.e. identity theft) that might result from the publication of their signatures would make such disclosure unfair. In these instances therefore we have withheld personal information because its disclosure would breach the first principle of the Data Protection Act 1998, which requires data to be processed fairly.

Please note that, although this is a consolidated version of the contract between the BBC and Capita, because it was originally drawn-up some time ago, some of the information contained therein that has no material bearing upon the performance of contract (such as, for example, old company addresses and references to legislation that has been superseded) may be out of date.

### **Why information has been withheld**

I am required under section 2(2) of the Act to assess whether the public interest in maintaining the exemptions used herein outweighs the public interest in disclosing the information.

The following factors are in favour of disclosure:

1. ensuring that public funds are being appropriately applied, and specifically that:
  - i. the TV Licensing system is being efficiently run; and
  - ii. value for money is being obtained.
2. ensuring that the BBC is getting value for money in respect of its use of the licence fee when purchasing goods and services.
3. ensuring that the licensing authority is exercising its functions as regards the enforcement of the TV Licensing system appropriately and proportionately.

4. ensuring that the public has access to sufficient information to enable it to contact TV Licensing and seek accountability for TV Licensing's activities.

I consider that the above public interest factors in favour of disclosure are already served by the following:

1. The fact that the BBC is required to satisfy the National Audit Office ('NAO') as to the value for money of the collection and enforcement arrangements and is accountable for the economy, efficiency and effectiveness of such arrangements. (NAO's most recent audit, dating from 18 January 2007, is published online at [www.nao.org.uk/publications](http://www.nao.org.uk/publications)).
2. The fact that the BBC is also subject to the oversight of the BBC Trust (which is responsible for commissioning value for money investigations into specific areas of BBC activity under Article 24(2)(i) of the BBC Charter) and the Executive Board (which is responsible for conducting the BBC's operational affairs in a manner best designed to ensure value for money under Article 38(1)(h) of the Charter).
3. The fact that the BBC has reduced the cost of collection from 6.2% of the total licence fee collected in 1991/2 (when it took over responsibility from the Home Office), to 3.6% for the financial year 07/08. This demonstrates that the TV Licensing system is being efficiently run. This and further related information is available in the BBC's annual report (see [www.bbc.co.uk](http://www.bbc.co.uk)) and the TV Licensing Annual Review (see [www.tvlicensing.co.uk/aboutus](http://www.tvlicensing.co.uk/aboutus)).

In addition, I consider that the following factors are in favour of withholding the information:

#### Section 43

1. The need for the BBC to maintain a strong bargaining position vis-à-vis suppliers during contractual negotiations in order to ensure that the licence fee is spent effectively.
2. The fact that the competitive position of companies in their particular market is not disadvantaged by doing business with the BBC. 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.

#### Section 31

3. The BBC has a duty to enforce the television licensing system and it is essential that effective deterrents against evasion are maintained for this purpose.
4. Without an effective deterrent to licence fee evasion, evasion would invariably increase. This would be to the detriment of the honest majority of people who are properly licensed and to the overall amount of revenue available to the BBC.
5. An increase in the rate of licence fee evasion would lead to an increase in detection costs.

6. An increase in the costs of detecting licence fee evasion would lead to a decrease in the available funds to be put towards producing the BBC's content.

In this instance, the public interest is served by ensuring that the commercial aspects of the contracts with the BBC's TV Licensing partners are protected, and by maintaining an effective deterrent to licence fee evasion and thus in turn protecting the BBC's revenue stream to produce its output.

Hence, I consider that there is a greater public interest in ensuring the effective collection of the licence fee than in disclosing the information you have sought. I am therefore satisfied, in terms of section 2 of the Act, that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Your appeal rights**

This enquiry has been dealt with under the Terms of the Freedom of Information Act. If you are not satisfied that we have complied with the Act in responding to your request you have the right to an internal review by a BBC senior manager or legal adviser. Please contact us at the address above, explaining what you would like us to review and including your reference number. If you are not satisfied with the internal review, you can appeal to the Information Commissioner's Office, which is contactable at: Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Telephone: 01625 545 700 Website: [www.ico.gov.uk](http://www.ico.gov.uk)

Once again, I would like to apologise for the severe delay to you receiving this information, but I hope you will appreciate the amount of work involved to collate and assess the information requested.

Yours sincerely,

Neil Gardner  
Senior Policy Adviser, TV Licensing Management Team