



## Freedom of Information Internal Review decision

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| Internal Reviewer | Allan Mackenzie, Commercial Lawyer |
| Reference         | IR2009040                          |
| Date              | 24 December 2009                   |

### Requested information

*"Please send all correspondence about this new request to this email address to aid with tracking the request properly.*

*I request a copy of all contracts currently in force relating to the collection of television licence fees and enforcement of the television licensing system, between the BBC and the following organisations:*

*(1) Capita Business Services*

*(2) Revenue Management Services*

*By contracts I mean all relevant documents that form part of the contract, as described by you in our previous correspondence on the subject.*

*(3) In cases where you hold contracts relating to work subcontracted out by either of these two organisations, either directly or indirectly, I request a list of these contracts. This list should include the names of all parties to the contract and a brief description of what the contract relates to, but it is not necessary to list all relevant documents separately.*

*If you cannot produce all of (1),(2) and (3) within the costs limit, then this request is for (1)+(2), or failing that just (1).*

*I remind you that you are not entitled to consider the time required for any redactions you choose to make.*

*In order to provide advice and assistance for any potential future requests of this nature, please could you provide details of how long each part of the request takes to collate, and in the case that you refuse or reduce the request because of the costs limit, an estimate of how long it would take to deal with any omitted parts.".....*

*I also asked the following:*

*In order to provide advice and assistance for any potential future requests of this nature, please could you provide details of how long each part of the request takes to collate, and in the case that you refuse or reduce the request because of the costs limit, an estimate of how long it would take to deal with any omitted parts.*

*Please can you answer this question"?*

### Issues on review

**Lateness**

*“(1) The lateness of the response*

*I recognise that the initial delay caused by the request not being logged properly was an isolated failure and one that I could have mitigated by querying the lack of confirmation message.*

*However, it then took you three months to completely address my request, far outside the time allowed by law. The twenty days is not a target, it is an absolute limit. Should people who are liable for the TV licence fee have a similar attitude to the law, and only comply if it is convenient to them at the time?*

*I notice that the RMS contract actually has clauses committing them to help you reply within 20 days, but even for that contract you failed to do so.*

*In addition the request for these contracts should not have come as a surprise, as this was a follow-on to the request I made in June, and someone else had already requested the Capital contract last year but was fobbed off.*

*[http://www.whatdotheyknow.com/request/previous\\_request\\_about\\_tv\\_licens](http://www.whatdotheyknow.com/request/previous_request_about_tv_licens)”*

**Exemptions**

*“(2) The material you have redacted*

*I do not agree with any of your redactions apart from the s40 redaction of names of junior staff.*

*This is a bespoke contract for a very specialised purpose and I do not believe your vague and unsupported arguments that releasing details would actually cause prejudice to your contractor's commercial position.*

*In addition the extent of the redactions seems excessive, with entire contract clauses obscured in a number of cases. Please consider whether, if redaction is necessary at all, then whether it must be so broad or whether some parts could be left or a partial summary of the redacted parts could be provided. For prices, please consider replacing specific numeric values that you continue to redact with a broad range instead.*

*I also do not accept your generic arguments that the public interest factors in favour of disclosure are already served by other means. For example, the reduction in the costs of collection from 6.2% of the licence fee revenue to 3.6% over nearly 20 years*

*is during a period in which the licence fee has risen substantially in real terms and thus a substantial fall is to be expected, particularly in view of the advances in technology over this period. What is of interest is whether it is being run efficiently now, not how inefficiently it was run in the past. None of your points even addresses factor 3 "ensuring that the licensing authority is exercising its functions .. appropriately and proportionately". Your indiscriminate use of the same arguments on every request relating to TV licensing suggests that you are not really conducting a proper assessment in regard to the specific information at hand.*

*I note that the behaviour of TV licensing as a whole is a cause of substantial public debate and concern, and it is therefore very important that as much detail as possible is out in the open. For example, in*

*<http://www.whatdotheyknow.com/request/18004/response/48622/attach/5/Disclosure%20Doc%20%20correspondence%20re%20IR2008026%20re%20RFI20080647.pdf>*

*the requestor expressed a desire to find out whether your contractual arrangements were encouraging aggressive collection strategies on the part of your contractors."*

### **Time Spent Complying**

*"Finally, I would also like to query the details of the amount of time you claim to have spent collating these contracts. You have listed substantial amounts of time spent by your contractors on this (26 hours in total in the top section of the table you produced), yet the vast majority of the information disclosed are the actual contracts between the BBC and those contractors. Are you saying that you are unable to find a copy of your contracts with them without asking them? I find this incredible."*

### **Sub-contractors**

*"My original request included the following:*

*(3) In cases where you hold contracts relating to work subcontracted out by either of these two organisations, either directly or indirectly, I request a list of these contracts. This list should include the names of all parties to the contract and a brief description of what the contract relates to, but it is not necessary to list all relevant documents separately.*

*I see that the RMS disclosure includes some mention of subcontracts, but I can find none in the Capita disclosure. Please can you clarify whether you have listed all subcontracts that you hold in each case?*

## **Decision**



### **Lateness**

The time taken to comply with the request for information clearly exceeded the statutory period allowed. The BBC accepted that this was the case in the response to the initial request. The BBC also accepted that although it encountered difficulties in tracking down all the information requested by the applicant some of the delay was simply due to an oversight on the part of the BBC. I have been assured that measures have been put in place to avoid such an oversight occurring again. Therefore, I would simply apologise once again on behalf BBC for not meeting the statutory timescale for issuing the information.

### **Exemptions**

Having examined the documents I am of the opinion that a considerable amount of the information redacted under S43(2) is not commercially sensitive either as regards the BBC or the Supplier. I have instructed that new versions of the documents should be released to the applicant disclosing additional information. I expect these to be provided within the next 10 working days.

In the new versions where information continues to be redacted I am satisfied that the exemptions under Sections 31 (prejudicial to the collection of tax) and Section 43(2) (commercial interest) have been properly applied. I am also satisfied that the public interest test favours maintaining the exemptions for the reasons stated in the original disclosure letter.

### **Time Spent Complying**

The applicant queries the amount of time spent compiling the information to be disclosed. The accuracy of the estimates is not a matter which is covered by the Freedom of Information Act 2000 and therefore is not something which I can review. That being said the number of hours quoted seems perfectly plausible particularly since I have spent over 11 hours conducting this review.

### **Sub-contractors**

The applicant has already been issued with a list of sub-contractors. In the course of the review I discovered that the list of sub-contractors had changed since the contracts were originally signed. An updated list of sub-contractors will be disclosed to the applicant along with the revised disclosure documents.

### **Appeal Rights**

If you are not satisfied with the outcome of your internal review, you can appeal to the Information Commissioner. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF; Telephone 01625 545 700 or [www.ico.gov.uk](http://www.ico.gov.uk)