



Information Policy & Compliance
bbc.co.uk/foi

'Neil'
request-15230-2084efd3@whatdotheyknow.com

29 September 2009

Dear Neil,

Request for Information – RFI 2009 1119

I write further to my letter of 20 August, and your subsequent email of 25 August, concerning your recent request for information, made under the Freedom of Information Act 2000 ('the Act'). I am sorry for the delay in replying further; however, we are now in a position to provide a substantive partial response to your request.

It may be helpful if I first confirm the nature of the relationship between TV Licensing and the BBC. 'TV Licensing' is a trade mark of the BBC and is used under licence by companies contracted by the BBC to administer the collection of television licence fees and enforcement of the television licensing system. The majority of administration is contracted to Capita Business Services Ltd. ('Capita'), with cash related payment schemes contracted to Revenues Management Services Ltd. ('RMS'). Over-the counter services are provided by PayPoint plc ('PayPoint'). Marketing and public relations activities are contracted to the AMV Consortium ('AMV'), which is comprised of the following four companies: Abbott Mead Vickers BBDO Ltd., Fishburn Hedges Boys Williams Ltd., PHD Media Ltd. and Proximity London Ltd. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

In your original email you requested a number of separate pieces of information. I will address each request in turn. For ease, I have highlighted the text replicated from your emails:

1. [I request] A copy of any contracts, indices and appendices between the BBC and the organisations contracted as 'TV Licensing' together with the monetary amounts of these contracts. Including any that cover contracts related to the renewal/purchase of 'detector' equipment, and any other contracts in force relating to TV Licensing.

We note that your request for information has been made by means of the 'whatdotheyknow.com' website, and wonder whether you might be aware of a very similar request to this, also made via that website,



which we are currently in the process of answering (see requests entitled 'TV licensing contracts' and 'TV licensing contracts with Capita and RMS' found within the 'British Broadcasting Corporation' section).

As noted in our original response to those requests, under section 12 of the Freedom of Information Act, we are not required to comply with a request if we estimate that the cost to us of doing so would exceed what the legislation defines as the "appropriate limit" (the appropriate limit being set by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £450, equivalent to two and a half days work, at an hourly rate of £25).

On that occasion, we declined to handle the request as originally framed, and asked the requester to revert to us with a narrowed request. This he subsequently did, and it is his narrowed request (for copies of just the contracts between the BBC and each of Capita and RMS) that we are currently in the process of fulfilling.

Earlier this week, we sent the first of the two documents to the requester – the RMS contract – and this is now available online from the 'whatdotheyknow.com' website (see 'TV licensing contracts with Capita and RMS' found within the 'British Broadcasting Corporation' section). The Capita contract will similarly be published on this website in due course; we will inform you when this happens.

As regards the other contract documents that you have requested in your letter, it is clear to us that – even with the Capita and RMS contracts excluded (on the basis that they have already been requested) – compiling this information would similarly be a lengthy activity likely to take in excess of two and a half days.

As stated above, under section 12 of the Freedom of Information Act, we are not required to comply with a request if we estimate that the cost of doing so would exceed the "appropriate limit". On that basis, we are declining to handle the remainder of your request as currently framed.

If you would care to narrow the scope of your request, so that it becomes possible to comply with it within the specified timeframe, we would be happy to revisit this response.

We are mindful of our duty (under section 16 of the Act) to provide reasonable advice and assistance to you, and specifically to advise how you might narrow your request so that it complies with the time limit. However, as was the case in the previous request (see correspondence on 'whatdotheyknow.com'), we are concerned that, because the scope of your request as currently framed is so very broad, and because we have no way of knowing (unless you wish to tell us) what your reason is for requesting the information, to provide such suggestions here might be counter-productive (i.e. it could be considered that we are leading you toward a particular course of action or conclusion). Therefore on this occasion we are not offering you advice in this regard.

We would, however, advise you that some of the individual contracts held by us (or held by others on our behalf) may in themselves take time to collate (due, for example, to the number of contract variations held in separate documents), and accordingly we would strongly advise you to limit the scope of your revised request to just those documents (or sections of documents) in which you are particularly interested.

As regards the monetary worth of each contract, I can confirm in terms of section 1(1) of the Act that the BBC does hold this information. However, I am withholding it under section 43(2) of the Act because to release it would be likely to prejudice the respective commercial interests of the companies concerned, and in turn the BBC.

In this case, it is the BBC's view that disclosure of the information requested would reveal valuable information on pricing to the competitors of above companies. It is therefore likely to place them at a disadvantage when competing for work. The service delivery market is a very competitive one and these companies compete with a large number of other agencies for contracts. The release of this information would allow these companies' competitors to ascertain with some certainty the amount these companies would be likely to bid for TV Licensing contracts, while these companies would not be in possession of the same information regarding their competitors. The release of the requested information would therefore be likely to assist the companies' competitors in outbidding them in order to re-secure these contracts.

Disclosure of this information would also be likely to place the above companies at a disadvantage when negotiating with existing and potential clients for other, non-BBC work, as they have large client bases and information about the details of BBC contracts is not widely known. It would be greatly beneficial to these companies' clients to learn the prices charged by them to the BBC for particular services, since they may then try to use this as a bargaining tool.

If either of the above consequences are realised these companies would not be able to offer the BBC the same, low prices that they currently do, which would compromise the BBC's ability to achieve value for money for licence fee payers.

It is also the BBC's position that the disclosure of the requested information would be likely to prejudice the commercial interests of the BBC. This is because if these companies were no longer able to offer the BBC the same low prices that they currently do, the BBC would be left facing a choice between spending less on these contracts and failing to appropriately enforce, collect and administer the licence fee or allocating additional monies for these contracts and losing funding to other important areas such as programming.

Disclosure of the requested information could also lead to a ratchet effect among potential future suppliers of these services to the BBC. This is because when these contracts are re-tendered (as, for example, Capita's is due to be in 2012), the existing suppliers are not guaranteed the contracts again and will compete alongside other bidders who are likely to be the other major service providers already referred to above. Since suppliers will assume that a minimum level of funds is available for particular services, they will have an incentive to price their bid beyond that level. Disclosure would therefore prejudice the BBC's ability to secure the best possible terms with potential suppliers of these services in the future.

The result is likely to be to the grave prejudice of the BBC, leading to the BBC either being unable to attract bids from the widest possible range of suppliers and suffering an attendant drop in the quality of its enforcement, collection and administration of the licence fee or increasing its payments to suppliers and suffering an attendant drop in value for money to the licence payer.

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' at the end of this letter.

2. An extract from the TV Licensing system, aggregated to include the location, license status, information regarding disputes/visits under Code B. (Though if all fields can be provided (except for those that hold information that may be exempted), then that would be preferred.) Relating to the calendar period 1 January 2005 – 1 July 2008.

You added:

Ideally I would like the location unit to be 'postcode' but if this is not practical then under your section 16 duty to advise and assist I would expect you to contact me to discuss how you record this geospatial data so that I may narrow my request in a way that works for both of us. (I note that in FOI RFI200800070 it is noted that such detail is held).

As a supplementary, under section 16, I would also ask that you provide some detail about the recording processes relating to TV Licenses. E.G. What software is used? What data fields are used? What other data sets/systems it links to (for instance, does it pass details to a system that writes the automated reminder/enforcement letters), etc.

We asked you to provide clarification of precisely what information it was that you were seeking, and you provided the following:

(i) 'the TV Licensing system' (in this context) [means] The list showing by street/ward (or suitable granular level), the number of properties licensed/unlicensed or as available in the 'database'

(ii) 'Code B' - This is terminology used by the BBC, I believe it refers to the PACE Code of practice, in situations where officers attend and seize equipment at the request/co-operation of the TV Licensing companies (http://police.homeoffice.gov.uk/publications/operational-policing/previous-PACE-codes-2005/PACE_Chapter_B.pdf?view=Binary). It was mentioned in FOI RFI20080690, second page, paragraph 1.

From the clarification provided in your 25 August email, we presume that what you are seeking here is for us to provide you with raw data from the TV Licensing database regarding the licensable status of all UK addresses, broken-down by postcode, between 1 January 2005 and 1 July 2008.

I can confirm in terms of section 1(1) of the Act that the BBC does hold this information. However, I am withholding it under sections 31(1)(a),(b),(d) and (g) of the Act which relate to law enforcement (specifically on the grounds that 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).

I am satisfied in terms of section 2(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. I have considered the public interest test in the section ‘*Why information has been withheld*’ at the end of this letter.

Were we to reveal localised figures of unlicensed addresses such as those you have requested, it would risk disclosing trends, the knowledge of which would prejudice our ability to prevent evasion of TV licence payment. Although the number of unlicensed addresses is not an exact proxy for the rate of evasion (since some properties will be unoccupied, some will be business premises (which will not have the same need to be licensed as domestic premises due to lower usage of television) and a very small proportion of occupied households – around 3% – do not watch television), the number of unlicensed addresses and the number of addresses evading the licence fee will be very close. It is therefore very likely that where there are a high number of unlicensed properties in an area, people will assume that this is the equivalent of the evasion rate. Where people perceive there to be a higher rate of evasion in a local area, someone already considering evasion may be more prepared to evade (i.e. less likely to purchase a licence) because they consider themselves to be at less risk of being caught than someone in another district or area.

(For the avoidance of doubt, may I confirm that we are not suggesting that you would use the information for the above purpose – merely that we consider that there is a strong likelihood that others who could gain access to the information would do so. All information disclosed under the Act is considered to be effectively placed in the public domain).

As you highlight in your letter, we have a duty under section 16 of the Act to provide advice and assistance to any person requesting information. The table below provides information about evasion on a national level in each of the last five years, which may go some way towards meeting your requirements:

	2003/04	2004/05	2005/06	2006/07	2007/08
Evasion Rate* (as % of total licences required)	5.0	4.6	4.7	5.1	5.1

* Historical evasion, as at 31 March in each year, restated using latest assumptions

These figures represent the official estimated evasion rate for the United Kingdom, as reported each year in the BBC’s Annual Report. The official estimated evasion rate for the United Kingdom is calculated for the Department of Culture, Media and Sport (DCMS) using an official model that compares the number of licences in force with external statistics on the number of households and other licensable places.

I can also confirm that the number of evaders caught in each of the last five years was as follows:

	2003/04	2004/05	2005/06	2006/07	2007/08
Evaders caught (000s)	380	373	376	375	371

I hope this is helpful. Finally, let me address the remaining aspect of this second request – that we “*provide some detail about the recording processes relating to TV Licenses*”.

I can tell you that the operation of the TV licensing system involves an extremely large amount of data, which is stored and managed through a very large number of interrelated databases, held by a variety of

different agencies on behalf of TV Licensing. In addition to the main TV Licensing database, which holds details of UK addresses and licensed customers, there is: a web database which stores details of web transactions, a Campaign Management System through which TV Licensing manages for example direct mail renewal selections and a Hotels database for licensed hotels. Please note that these are just examples of the numerous databases making up the TVL Operation.

The main TV Licensing database holds details of the 25 million licences in force in the United Kingdom. Typically this data will consist of the name, address and licence number. We may also hold bank details if people pay by direct debit. We record only the data that is needed to administer the TV Licensing system and, as regards the security of the data, all processes and practices are compliant with the international security standard ISO27001 or equivalent. (The BBC takes its data protection responsibilities extremely seriously and is committed to ensuring that any personal information processed by TV Licensing is handled in the most appropriate and security conscious manner possible).

As regards your specific point of what software the TV Licensing database uses, I can confirm that the BBC does hold the information you requested; however, I am withholding this information under sections 31(1)(a),(b),(d) and (g) of the Act, which relate to law enforcement, for the same reasons as previously specified.

This is because revealing information concerning the type of database the TV Licensing system is working on may put the security of the database and its operational functions at risk of sabotage, thus prejudicing TV Licensing's and the BBC's ability to prevent and detect crime. (Once again, I would reiterate that we are not suggesting that you would use the information for the above purpose – merely that we consider that there is a strong likelihood that others who could gain access to the information would do so, and that all information disclosed under the Act is considered to be effectively placed in the public domain).

I am satisfied in terms of section 2(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. I have considered the public interest test in the section '*Why information has been withheld*' at the end of this letter.

3. *The budget for 2009, and the previous budget vs. actual figures for 2008-2005 relating to the costs of enforcement/collection & TV Licensing as a whole.*

Please find below the budgeted and actual costs of collection and enforcement in each of the last four financial years:

	2005/06	2006/07	2007/08	2008/09
Budgeted amount (£m)	165.6	145.8	134.1	128.6
Actual amount (£m)	153.4	132.6	121.6	119.9

Please note that we consider the cost of 'enforcement/collection' and the cost of 'TV Licensing as a whole' to be tantamount to the same thing, since all TV Licensing's work is concerned with the collection of television licence fees and the enforcement of the TV Licensing system.

We note that you additionally asked for the budgeted costs of collection and enforcement for the current financial year (i.e. 2009/10). I can confirm that the BBC does hold this information. However, I am withholding this information under section 43 of the Act, which states that information will be exempt from disclosure if so to do would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

It is the BBC's view that the disclosure of the requested information would be likely to prejudice the commercial interests of the BBC. This is because the release of this information at this time would prejudice the BBC's ability to pursue, as it constantly does, the most cost-effective service possible from its contractors within the current financial year.

I am satisfied in terms of section 2(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. I have considered the public interest in the following section.

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).
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) and the TV Licensing Annual Review (see 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.

Section 38

7. The BBC and TV Licensing have a duty to take all reasonable steps to protect the welfare of their employees.

In conclusion, 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 the reference number given at the start of this letter. If you are not satisfied with the internal review, you may appeal to the Information Commissioner, whose contact details are as follows: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF; telephone: 01625 545700; www.ico.gov.uk.

Yours sincerely,

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