



Information Policy & Compliance  
[bbc.co.uk/foi](http://bbc.co.uk/foi)

Neil McGovern  
By email to: Neil McGovern [[request-18751-7f78a345@whatdotheyknow.com](mailto:request-18751-7f78a345@whatdotheyknow.com)]

28 October 2009

Dear Mr McGovern

**Freedom of Information Act 2000 – reference number RFI20091368**

Thank you for your request under the Freedom of Information Act (the “Act”) of 30 September 2009.

You requested:

*“Could you please provide all correspondance, electronic or otherwise, between the Digital Transmission Licencing Administrator and the BBC with regards to: encryption of content using DTCP technology, content management arrangements as specified in the HD D-Book, other appropriate content managements arrangements.”*

In accordance with section 1(1) of the Act, the BBC confirms that information relating to your request is held by the BBC. However, the BBC will not be providing you with this information as we consider it to be exempt under section 43(2) of the Act. This is because disclosure would be likely to prejudice the commercial interests of the BBC and certain third party companies by disclosing details relating to ongoing commercial negotiations.

We are withholding information under section 43(2) because disclosure would be likely to prejudice the commercial interests of both the BBC and the third parties by:

- prejudicing the negotiating position of the BBC in ongoing commercial negotiations between the BBC and the other companies for the future development of HD services on the DTT platform;
- weakening the BBC’s bargaining position with suppliers of goods and services in relation to making HD content available;
- weakening the BBC’s and other companies’ positions in a competitive environment by revealing market-sensitive information or information of potential usefulness to competitors in this sector.



As section 43 is a qualified exemption, in accordance with section 2(2) of the Act, we have considered the public interest factors in this case. Specifically, whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In favour of disclosure, we recognised that there is a public interest in the following:

- that the BBC's commercial activities (including the procurement process) are conducted in an open and honest way; and
- that business can better respond to opportunities with the BBC.

On the other hand, in considering factors that might weigh in favour of the public interest in withholding, we took into account:

- that companies, or individuals provide the BBC with commercially sensitive information, so that the BBC is able to make robust decisions regarding its suppliers of goods and services, including ensuring that the BBC obtains the best value for money from each transaction;
- that the BBC maintains a strong bargaining position vis-à-vis suppliers during contractual negotiations in order to ensure that the licence fee is spent effectively;
- 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;
- that the BBC is able to provide licence fee payers with as wide a range of HD content as possible.

We are satisfied, in terms of section 2 of the Act, that in all the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### Appeal Rights

If you are not satisfied with this response you have the right to an internal review by a BBC senior manager. 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. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone 01625 545 700 or see [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)

Yours sincerely

**L. Stiller**  
**Legal and Business Affairs Manager**  
**Future Media & Technology**