



Information Policy & Compliance

bbc.co.uk/foi

N Smith

request-4060-48a3550d@whatdotheyknow.com

25 November 2008

Dear N Smith,

Freedom of information request – RFI20081258

Thank you for your request received on 11 November 2008 seeking further information from TV Licensing. Your request is being dealt with under the Freedom of Information Act 2000 (“the Act”).

In your request you asked the following (I have numbered your questions for ease of reference):

- 1) *I am enquiring about the current legal status of the BBC. I understand that the BBC is a publicly owned body that generates revenue through certain commercial ventures and through the annual license fee.*

The BBC is a corporation incorporated under Royal Charter. The current Royal Charter was granted to the BBC on 19 September 2006. It took full effect on 1 January 2007 and will expire on 31st December 2016.

The Royal Charter sets out the Public Purposes of the BBC and guarantees its editorial independence. It prescribes the constitution of the BBC, the relationship between the Trust and the Executive Board, and the duties and functions of both bodies. The BBC has also entered into an agreement with the Secretary of State for Culture Media and Sport (the "Agreement") which complements the Royal Charter. The Agreement goes into more detail on many of the subjects mentioned in the Royal Charter and also covers such things as the BBC's regulatory obligations and funding arrangements. It is the combination of the Royal Charter and the Agreement that provide the constitutional basis for the BBC

- 2) *Have the management team/those responsible for the management of the BBC ever considered allowing adverts on their services in lieu of requiring people to have T.V. licenses?*

The most recent work in this area can be found in the document called ‘Building Public Value: Renewing the BBC for a digital world’ that was published in June 2004. This document can be downloaded from the BBC’s website. Chapter 7 is entitled ‘Paying for BBC services’. It explores different options for how to pay for the BBC in the future. It analyses the advantages and disadvantages of the licence fee, advertising, subscription, direct government grant and different broadcasters competing for licence fee funding (top



slicing). Please find this document at the link below:

http://www.bbc.co.uk/foi/docs/bbc_constitution/bbc_royal_charter_and_agreement/Building_Public_Value.pdf

- 3) *Also, I understand that a contract was issued to Capita Business Services Ltd for the collection of said revenue from T.V. licenses. Please could I enquire as to how much this contract was worth and how much the BBC pays Capita Business Services Ltd for providing the collections service (in this I mean either commission/base rate or both, also figures for the most recent full financial year would be helpful).*

Please note that “TV Licensing” is a trading name used by companies contracted by the BBC to administer the collection of television licence fees and enforcement of the television licensing system. The majority of the administration of TV Licensing is contracted to Capita Business Services Ltd (which undertakes the majority of the administration of the TV Licensing system), with the administration of our cash related payment schemes contracted to Revenues Management Services Ltd (RMS). PayPoint Network Ltd and PayPoint Collections Ltd are contracted to provide over-the-counter services. The marketing and public relations activities are contracted to the AMV Consortium. The consortium is made up of the following four companies: Abbott Mead Vickers BBDO Ltd, Fishburn Hedges Boys Williams Limited, PHD Media Limited and Proximity London Ltd. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

As a general answer to your question, please see the following press release from Capita which refers to their overall TV Licensing contract cost:

<http://www.capita.co.uk/Group/MediaCentre/PressReleases/PressReleaseArchive/BBCsignsTVLcontract.htm>

The base contract is worth £500 million over the term, with additional volume and performance related elements which could increase this cost.

Regarding more specific information on how much the BBC pays Capita Business Services Ltd for providing the collections service, I can confirm in terms of section 1(1) of the Act that the BBC does hold the information you requested. However, I am withholding this information under section 43(2) of the Act as its release would be likely to prejudice the commercial interests of Capita and, in turn, the BBC.

In this case, it is our view that disclosure of the information requested would reveal valuable information on pricing structures, business structures and operations to the competitors of Capita. It is therefore likely to place Capita at a disadvantage when competing for work, specifically in the context of the procurement of the contract for the management of the enforcement, collection and administration of the licence fee which is due to take place in 2012. The service delivery market is a very competitive one and Capita competes with a large number of other agencies for contracts. The release of this information would allow Capita’s competitors to ascertain with some certainty the amount Capita was likely to bid for this contract, while Capita would not be in possession of the same information regarding its competitors. The release of the requested information would therefore be likely assist Capita’s competitors in outbidding them in order to re-secure this contract.

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

If either of the above impacts occur, Capita would not be able to offer the BBC the same, low prices that it does currently, 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 Capita was no longer able to offer the BBC the same low prices that it currently does, the BBC would be left facing a choice between spending less on this contract and failing to appropriately enforce, collect and administer the licence fee or allocating additional monies for this contract 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. As stated above, the current contract with Capita runs until 2012 and the BBC anticipates that re-tendering for the supply of these services will commence in late 2010. Capita is not guaranteed the contract in 2012 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.

As section 43 is a qualified exemption, the BBC is required by section 2(2) of the Act to consider the public interest factors in this case. Specifically, we looked at 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 is using public money effectively.
- that the BBC is getting value for money in respect of its use of the licence fee when purchasing goods and services.
- that there is a high standard of debate around the licence fee collection, currently being generated in response to the BBC Trust's open consultation (available at http://www.bbc.co.uk/bbctrust/consult/open_consultations/tv_licence.html). This can be facilitated by placing as much information as possible into the public domain.

However, it is the BBC's contention that these objectives will be threatened if the contract with Capita is disclosed (see above). In any event, the general public interest in the transparency and accountability of the BBC in respect of its use of the licence fee is served by a broad range of oversight mechanisms, both internal and external. These include the oversight of the BBC Trust (responsible for commissioning value for money investigations into specific areas of BBC activity (Article 24(2)(i) of the Charter)) and the Executive Board (responsible for conducting the BBC's operational affairs in a manner best designed to ensure value for money (Article 38(1)(h) of the Charter)). These mechanisms also include Ofcom, the fair trading regime and competition law in general. Indeed, in the interests of transparency and accountability, certain limited information on expenditure is already provided in the BBC's *Annual Report and Accounts* and the *TV Licensing Annual Review* (available at

http://www.tvlicensing.co.uk/pdfs/AnnualReview_en2008.pdf?r_exit_link=d_pdf_download). For example, information on collection costs can be found on page 6 of the *TV Licensing Annual Review*. It is the BBC's contention that the release of detail beyond this threatens to pose considerable harm to the BBC's commercial interests, without offering a proportionate benefit to the public.

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

- 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.

In this instance, the public interest is served by ensuring that the commercial interests of the contracts with the BBC's TV Licensing partners are protected.

There is hence a greater public interest in ensuring the effective collection of the licence fee than in disclosing the information you have sought. We are therefore satisfied, in terms of section 2 of the Act, that in all the circumstances of the case, the public interest in maintaining the exemptions outweighs the public interest (outlined above) 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 or legal adviser. Please contact us at the address provided, 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 <http://www.ico.gov.uk/>.

I hope this response is helpful.

Yours sincerely,

Natalie Saunderson
Policy Adviser
BBC TV Licensing Management Team