



Information Rights

bbc.co.uk/foi bbc.co.uk/privacy

Dave McIntyre

request-659607-759bd788@whatdotheyknow.com

request-659608-7fcfc06e@whatdotheyknow.com

18 May 2020

Dear Mr McIntyre,

Freedom of Information Requests - RFI20200479 and RFI20200480

Thank you for your requests to the BBC of 17 April 2020 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

'I am aware that the BBC is funded through a combination of Grant-in-Aid from the DCMS and the Department for Work and Pensions, as well as revenue generated from commercial activities.

On the BBC website at:

<https://www.bbc.co.uk/mediacentre/latestnews/2019/britbox-agreement>

it is stated that "...the BBC holds 10% of the equity. The BBC has an option to acquire additional shares over time up to 25% in total..."

My FOI request is relating to:

(a) How that original 10% equity stake was funded, was any funding received from 'Grant-in-Aid' funds?

(b) Is there any past, present or future expenditure from 'Grant-in-Aid' funds made either to or made as a benefit to BritBox SVOD Ltd, BritBox LLC, BBC Studios Ltd, BBC Studios Productions Ltd or BBC Studios Distribution Ltd.'

(c) Please provide the number of BBC employees with which the BBC is aware of their providing services to or in benefit of BritBox SVOD Ltd, BritBox LLC, BBC Studios Ltd, BBC Studios Productions Ltd or BBC Studios Distribution Ltd.

As an example, the BBC lists an individual 'Bal Samra' as BBC Group Commercial Director who also holds a position with BritBox SVOD Ltd.

(d) Where BBC employees provide their services to organisations / entities not funded through 'Grant-in-Aid' funds can you please provide the BBC policy for how services are charged back / salary pro rata'd / or some other process to ensure that ' Grant-in-Aid' funds are not abused delivering services that are not within the scope of ' Grant-in-Aid' funding. If you have no such process or policy please state this in your response.'

Response

Before we address your questions in turn below, it may be of interest if we summarise the regulatory framework relating to the BBC's commercial activities. As required by the Charter and Agreement, Ofcom has imposed trading and separation rules to govern the interaction between the BBC and its commercial activities. These are set out in Ofcom's document *BBC commercial and trading activities – requirements and guidance* (https://www.ofcom.org.uk/__data/assets/pdf_file/0018/136071/BBC-commercial-trading-updated-requirements.pdf). This regulatory framework sets out the requirements for (A) separate subsidiaries and operational separation; (B) the supply of goods and services; (C) the need for commercial subsidiaries to make a commercial rate of return; and (D) monitoring, reporting and transparency.

In line with these requirements we publish a number of documents which demonstrate our compliance:

- BBC Commercial Holdings Ltd annual report and consolidated financial statements (<http://downloads.bbc.co.uk/aboutthebbc/reports/reports/commercial-holdings-annual-report-2019.pdf>);
- BBC Consolidated Group Trading Manual (<http://downloads.bbc.co.uk/aboutthebbc/reports/policies/fairtrading/group-trading-manual.pdf>), which sets out the transfer pricing methodologies for transactions between the BBC and its commercial subsidiaries and third parties;
- Statement of Operational Separation (<http://downloads.bbc.co.uk/aboutthebbc/reports/policies/operational-separation.pdf>);
and
- In the BBC's Annual Report and Accounts (<https://downloads.bbc.co.uk/aboutthebbc/reports/annualreport/2018-19.pdf>) we publish the report of the Fair Trading Committee (p.138-139) and the results of the independent Fair Trading Audit (p.140).

Question A

The 10% stake is held by BBC Commercial Holdings Limited which is one of the BBC's wholly owned commercial subsidiaries. As set out in section 6(1)(b)(ii) of the Act, our subsidiaries (including BBC Studioworks Limited, UKTV, BBC Global News Ltd and BBC Studios Ltd), as well as the charities BBC Media Action and BBC Children in Need, are not subject to the Act. However, on this occasion we are happy to confirm the above.

Question B

No

Question C

Bal Samra, BBC Group Commercial Director, and David Curley, BBC Group Corporate Finance Director, are directors of BritBox SVOD Limited. As such they are representing the BBC's interest in BritBox rather than providing services or benefits to BritBox.

BritBox LLC is a joint venture between ITV and BBC Studios. There are no BBC Public Service employees providing services or benefits to BritBox LLC.

With regard to the BBC's other commercial subsidiaries (i.e. BBC Studios Limited, BB Studioworks Limited and BBC Global News Limited) there are a number of group business support services that are provided by the BBC to its commercial subsidiaries. A comprehensive list of these services and which commercial subsidiaries they are provided to is set out in the Consolidated Group Trading Manual (please see link above). Some, but not all of these services, involve BBC staff time.

However, to identify the number of Public Service staff involved in providing services to commercial subsidiaries would exceed the appropriate limit as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (SI 2004/3244). The appropriate limit has been set at £450 (equivalent to two and a half days work, at an hourly rate of £25). This is because it would involve working through the Group Trading Manual to identify those services that involve BBC Public Service time and then requesting from each team or division the number of staff involved in the provision of the service for each commercial subsidiary. Therefore, under section 12 of the Act, we are refusing to handle the request as it would exceed the appropriate limit.

However, in the Commercial Holdings Limited annual report (see link above) we have published the total transfer charges between the BBC and each of the BBC's commercial subsidiaries.

Please note BBC Studios Production Limited and BBC Studios Distribution Limited are 100% owned subsidiaries of BBC Studios Limited.

Question D

Ofcom's trading and separation rules (see link above) provides the regulatory framework for the charging between the BBC, its commercial subsidiaries and third parties.

The BBC sets out the relevant process and transfer pricing methodologies for each type of service provided by the BBC to its commercial subsidiaries and third parties in the Consolidated Group Trading Manual (see link above).

Appeal Rights

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. A request for an internal review must be made within 40 working days of receiving the BBC's response to your original request.

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, Tel: 0303 123 1113 or see <https://ico.org.uk/>.

Yours sincerely

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BBC Legal