



Information Policy & Compliance
bbc.co.uk/foi bbc.co.uk/privacy

Mr C Lee-Koo
Via email: request-144664-e2371c1a@whatdotheyknow.com

1 February 2013

Dear Mr Lee-Koo

Request for Information – RFI20130026

Thank you for your request of 7th January 2013 referring to your request under the Freedom of Information Act 2000 ('the Act') seeking the following information:

"The text of a sworn oath of a BBC application for a search warrant has entered the public domain. An excerpt of the text of that statement relevant to this FOI request is reproduced below.

"5. A television display generates light at specific frequencies. Some of that light escapes through windows usually after being reflected from one or more walls in the room in which the television is situated. The optical detector in the detector van uses a large lens to collect that light and focus it on to an especially sensitive device, which converts fluctuating light signals into electrical signals, which can be electronically analysed. If a receiver is being used to watch broadcast programmes then a positive reading is returned. The device gives a confidence factor in percentage terms, which is determined by the strength of the signal received by the detection equipment and confirms whether or not the source of the signal is a "possible broadcast"

"6...When the detector camera was pointed at the window of the Premises a positive signal was received indicating a TV receiver was in use receiving a possible broadcast with a confidence factor of 97%. ..."

--Excerpt ends--

The text in this statement makes plain that the TV detector does NOT produce with 100% confidence that its 'positive reading or signal' is indicative of a live TV broadcast being received, which is the legally licensable factor.

Search warrants granted by Justices of the Peace and Magistrates are based on the information contained in these sworn statements. The execution of these warrants will inevitably impinge on the liberty of legally TV licence free households.

It is also a criminal offence to make a false or misleading statement to a Justice of the Peace or Magistrate under oath.

There is therefore a strong public interest in full transparency of the capabilities of the TV detection equipment and any "confidence factor" statistic figures quoted to Justices of the Peace and Magistrates under oath in order to obtain search warrants.

For the avoidance of doubt I am not asking HOW the TV detectors work, but the provenance of the results that their detection parameters and/or statistics produce.

Under the Freedom of Information Act 2000, please answer the following questions.

Q1. Is the "confidence factor in percentage terms" actually output by the TV detector as described above? (Please answer Yes or No.)

If the answer to Q1 is Yes: Q2a. What is the range of "confidence factor" percentages that the TV detector device can produce?

Q2b. What is the MINIMUM confidence factor percentage that the BBC will quote to a Justice of the Peace or Magistrate in order to apply for a search warrant?

If the answer to Q1 is No: Q2c. What is the source of the confidence factor that is quoted to Magistrates and Justices of the Peace? ("97%" in this example)

Q3. How is the "confidence factor" percentage calculated?

Q4. Please state concisely what the "confidence factor" percentage is a function of and what variables are used in its calculation?

Q5. The statement says that the confidence factor in percentage terms in this particular case was "97%" of a "possible broadcast". Are there statistics produced which may be quoted to Justices of the Peace and Magistrates to assist them to decide whether or not to grant search warrants that would indicate what the confidence factor ACTUALLY is? If so, what are they and are they provided?

Q6. In regard to the following excerpt sentence "If a receiver is being used to watch broadcast programmes then a positive reading is returned."; Are there other circumstances in which a "positive reading" or "positive signal" is also returned? If so, what are they? (for example playing a DVD or video game)

Q7. Does the percentage "confidence factor" phrase referred to in paragraphs 5 and 6 refer to the output from the TV detector device in BOTH cases? Please answer Yes or No.

Q8. Does the detector provide three (3) separate outputs indicating "Received Signal Strength", "Possible Broadcast" and "Confidence Factor Percentage"? If not, what are the outputs?

Q9. Is the “confidence factor” solely a function of the “Received Signal Strength” and “Possible Broadcast” TV detector output parameters?

Q10. Are Justices of the Peace or magistrates being made aware that the statistical “confidence factor” percentage of the TV detector may in fact be much LOWER if the “positive reading” were representing an ACTUAL (rather than ‘possible’) broadcast detected?

Q11. Is the 97% “confidence factor” quoted in the statement above merely the 2012 published BARB statistic that “97% of UK households have a television”?

Q12. Does the “TV Detector” exist at all? Please answer Yes or No.”

Please note that “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 the administration of TV Licensing is contracted to Capita Business Services Ltd (‘Capita’). Over-the counter services are provided by PayPoint plc (‘PayPoint’) in the UK mainland and Northern Ireland, and by the Post Office in the Isle of Man and Channel Islands. Marketing and printing services are contracted to Proximity London Ltd. Media services are contracted to Mediaedge:CIA International Limited (“MEC”). The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

I shall address your questions in turn.

Questions 1 to 11

I can confirm under section 1(1) of the Act that the BBC holds information relevant to your request. However, I am withholding this information under sections 31(1)(a),(b),(d) and (g) and (2)(a) 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. This is because it would provide information of use to those seeking to evade and/or assist others in evading paying the licence fee.

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 provided further explanation of my consideration of the public interest in the section ‘Why information has been withheld’, below.

Question 12

I can confirm that TV Licensing continues to use detection technology (encompassing both vans and handheld devices) as one method of detecting evasion. Information about our hand-held detection devices is available on our website at the following link:

<http://www.tvlicensing.co.uk/search?q=hand-held>

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 outweighs the public interest in disclosing the information.

The following factors are in favour of disclosure:

1. ensuring that the licensing authority is exercising its functions appropriately and proportionately; and
2. that public funds are being appropriately applied, and specifically that:
 - a. the TV Licensing system is being efficiently run; and
 - b. value for money is being obtained.

I consider that the above public interest factors in favour of disclosure are served by the following:

1. The fact that the BBC is inspected by an independent body - the Office of Surveillance Commissioners - which monitors the BBC's compliance with legislation regarding detection every two years, and in doing so ensures that the public are not unfairly or unlawfully subject to detection.
2. 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 is published on the NAO website at www.nao.org.uk.
3. The BBC has reduced the cost of collection from 6.2% of the total licence fee collected in 1991/2, when it took over this responsibility from the Home Office, to 3.4% for the financial year 10/11. 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* (www.tvlicensing.co.uk/about/our-performance-AB6/).

In addition, the following factors are in favour of withholding the information:

1. The BBC has a duty to enforce the television licensing system and it is essential that evasion is kept to a minimum.
2. Part of keeping evasion to a minimum is maintaining uncertainty as to TV Licensing's enforcement practices. This uncertainty contributes to the deterrent effect which is an important part of TV Licensing's enforcement strategy.

3. 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.
4. An increase in the rate of licence fee evasion would lead to an increase in enforcement costs and may lead to more prosecutions.
5. An increase in enforcement costs would lead to a decrease in the available funds to be put towards producing the BBC's content.

In this instance, the public interest is served by maintaining an effective deterrent to licence fee evasion and thus in turn protecting the BBC's revenue stream and keeping prosecutions to a minimum.

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 (outlined above) in disclosing the information.

Appeal Rights

If you are not satisfied that the BBC has 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 under the Act 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/>.

Kind regards

Rupinder Panesar

Freedom of Information Advisor, TV Licensing Management Team

