

Explanation of the exemption applied

Section 31

Section 31(3) (“Law Enforcement”) provides that the duty to confirm or deny does not arise if, or to the extent that compliance with section 1(1)(a) would or would be likely to, prejudice any of the matters mentioned in subsection (1).

Having acknowledged that the Commission is not able to confirm or deny whether we hold any information within the scope of your request; section 31 FOIA requires that we consider a public interest test to identify whether there is a wider public interest in fulfilling this request opposed to maintaining the exemption.

In favour of disclosure

- There is a legitimate public interest in promoting the accountability and transparency of public authorities.
- Setting a precedent for the discussion of information held/not held by the Commission may discourage unlawful activities being pursued.
- Further to this, increasing confidence in the Commission as a regulator and its ability to uphold the law.

In favour of maintaining the exemption

- Disclosing information regarding the number of complaints raised against specific operators is likely to impact on the openness of operators in providing detailed information in a timely manner. This in turn will impact on the ability of the Commission to effectively regulate.
- Detailing complaints against selected operators would be disproportionate as we do not publish details for all operators. Publishing such details would not be in keeping with regulatory best practice or the Commission’s approach to highlighting regulatory non-compliance.
- The Commission is not a complaint handling body whereby such statistics would be an indicator of performance against statutory duties

Weighing the balance

Having considered the balance of the public interest, the Commission is of the view that fulfilling this request would negatively impact on the openness the Commission expects from operators.

The public interest lies in operators being encouraged to make frank submissions to the Commission regarding compliance matters to allow the Commission to take appropriate steps in a timely manner.

The Commission publishes statistics on licence reviews in its annual report as well as details of regulatory sanctions that are issued following serious compliance issues.

Having weighed these issues, the Commission is of the view that the public interest is best served through maintaining this exemption.