

8 May 2015

Julia Snape
Information Requests

David John
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information.requests@ofcom.org.uk

Dear Mr John

Freedom of Information: Right to know request

Thank you for your request for information regarding pirate radio stations broadcasting in the Norfolk area from January 2010 till 29 April 2015, which we received on 29 April and have considered under the Freedom of Information Act 2000 ('the Act').

Please find below our response to each of the questions you raised.

I would kindly request the following information regarding unlicensed pirate radio stations broadcasting in Norfolk from January 2010 until now under the freedom of information act.

1. How many prosecutions against individuals have taken place between the specified dates?

None.

2. Out of the number of persons identified, how many have had multiple prosecutions?

Not applicable.

3. Please list the names of all the unlicensed broadcast stations and the number of times enforcement action has been carried against each of them, clearly showing the method of enforcement used (ie: studio raid, main transmitter removal, mobile telephones disconnected, website domain name blocking etc).

Year	TX Disconnection	Link TX	TX seizure	Studio	Total
2014	1		1		2
2015	1		2		3
					5

Five operations were conducted against one known illegal broadcast station operating in Norfolk. The identity of the station is being withheld under s44 of the Act. Section 44 of the Act prevents organisations releasing information if another Act has said that it shouldn't, such as the Communications Act 2003, or the Wireless Telegraphy Act 2006.

For further information on Section 44 of the Act, please see:

<http://www.legislation.gov.uk/ukpga/2000/36/section/44>.

This information is being withheld under Section 44 of the Act, in line with Section 38 (2) (c) (i) of the Wireless Telegraphy Act 2006. That is because releasing details about the stations, such as names or frequencies, could be seen to be facilitating their day-to-day operations.

Any enforcement action that may or may not have been taken against pirate radio broadcast stations is being withheld under Section 31 of the Act. The release of this information to the general public may prejudice Ofcom's ability to perform its ongoing regulatory functions, with the following purposes:

- (a) the purpose of ascertaining whether any person has failed to comply with the law,
- (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
- (c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,

For information on Section 31 of the Act, please see:

<http://www.legislation.gov.uk/ukpga/2000/36/section/31>

In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. In the annex I have set out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

For further information on section 31 of the Act, please see:

<http://www.legislation.gov.uk/ukpga/2000/36/section/31>.

It is likely that other exemptions under the Act would also apply.

4. How many enforcement visits have been as a result from information supplied from members of the public or licence paying broadcasters?

Reports/complaints from the public can determine the level of action that Ofcom takes. Our systems do not readily attribute each single report to an enforcement operation.

5. Please supply a breakdown of costs for each case of enforcement action carried out.

This information is not held.

6. Please give details of any complaints or allegations made against Ofcom's staff in the enforcement section.

Ofcom will not provide any details of unfounded complaints against members of staff as this would be exempt from disclosure under Section 40 of the Act. There have been no complaints made that have been found to be valid.

7. Out of the unlicensed broadcast stations identified, if any have not had enforcement action against them please supply information as to why it hasn't taken place.

This information is also being withheld under Section 44 of the Act, in line with Section 111 of the Wireless Telegraphy Act 2006; Section 44 is an absolute exemption under the Act and does not require a public interest test.

8. How many reports of interference to safety of life services or aviation have been reported in Norfolk between the dates stated above, if any please state which authority reported it and if the interference was proven to be attributed to pirate radio?

None.

Please ensure that when using the provided information in any way, you comply with all relevant legislation. For example, the information provided may be protected by copyright under the Copyright, Designs and Patents Act 1988 (as amended). If in doubt, please seek independent legal advice. For Ofcom's policy on copyright and related issues, please refer to <http://www.ofcom.org.uk/disclaimer>.

Yours sincerely

Julia Snape

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exception cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Graham Howell
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

Section 31 (1): Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice -

- (a) the prevention or detection of crime;
- (b) the apprehension or prosecution of offenders.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none">• Open policy making and public confidence in regulated activities	<ul style="list-style-type: none">• Disclosure of Ofcom's enforcement operational policies would prejudice the effective conduct of Ofcom's enforcement activities because offenders could use such detailed knowledge to obstruct enforcement action or procedures.

Reasons why public interest favours withholding information	
<ul style="list-style-type: none">• Disclosure of detailed enforcement policy, which is often in a state of review, could be used by offenders to counter our enforcement activities and would inhibit and prejudice our enforcement ability. It is in the public interest for this not to happen because ineffective enforcement action would lead to a rise in the use of illegal radio equipment which would lead• in turn to increased interference to radio users.	