



Information Policy & Compliance
bbc.co.uk/foi

David

Sent by email to: request-52899-a112xxx@xxxxxxxxxxxxxxxxxxx.xxx

23rd December 2010

Dear David,

Freedom of Information request - RF120101695

I refer to your request for information dated 22nd December 2010 in which you request the following information under the Freedom of Information Act 2000 (the Act):

'why are these arms [commercial subsidiaries] of the BBC not subject to FOI requests?

Please confirm whether or not the BBC's royal charter is being breached by these loans being accepted'

I note that this request is a follow-up to your two previous requests for information regarding EU funding (RF120101570) and EU loans (RF120101580).

The unique reference for your request is RF120101695 and I now respond as follows:

The Freedom of Information Act 2000 provides a right of access to all recorded information held by a public authority. As your request is for information that is not recorded by the BBC, your request falls outside of the scope of the Act.

However, we are mindful of our duty, under section 16 of the Act, to provide reasonable advice and assistance and I would refer you to the Information Commissioner's Office (ICO) website which provides further information about the Act and information that is covered by the Act:

http://www.ico.gov.uk/for_the_public/official_information.aspx

In particular, I would refer you to the ICO's information on publicly-owned companies:

http://www.ico.gov.uk/for_organisations/freedom_of_information/application.aspx. The ICO's guidance



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‘when a company is publicly owned for the purposes of the Act’ explains that under section 6(1)(b)(ii) of the Act companies, that are wholly-owned by public authorities who are listed in the Act only in relation to particular information, are not subject to the Act.

Part VI of Schedule 1 to the Act provides that information held by the BBC and other public service broadcasters is only covered by the Act if it is held for ‘purposes *other* than those of journalism, art or literature’.¹ The Act does apply to all of the other information the BBC holds about the management and running of the BBC.

The BBC’s commercial subsidiaries (BBC Studios & Post Production Ltd [formerly Resources Ltd], UKTV, BBC World and BBC Worldwide Ltd) are therefore not subject to the Act.

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 above, 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, whose contact details are:

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

Telephone: 01625 545 700.

Website: <http://www.ico.gov.uk>

Yours sincerely,

Helen Padley
Advisor
Information Policy & Compliance

¹ For more information about how the Act applies to the BBC please see the enclosure at the end of this letter.

Please note that this guidance is not intended to be a comprehensive legal interpretation of how the Act applies to the BBC.

Freedom of Information

From January 2005 the Freedom of Information (FOI) Act 2000 gives a general right of access to all types of recorded information held by public authorities. The Act also sets out exemptions from that right and places a number of obligations on public authorities. The term “public authority” is defined in the Act; it includes all public bodies and government departments in the UK. The BBC, Channel 4 and S4C are the only broadcasters covered by the Act.

Application to the BBC

The BBC has a long tradition of making information available and accessible. It seeks to be open and accountable and already provides the public with a great deal of information about its activities. BBC Information operates 24 hours a day, seven days a week handling telephone and written comments and queries, and the BBC’s website bbc.co.uk provides an extensive online information resource.

It is important to bear this in mind when considering the Freedom of Information Act and how it applies to the BBC. The Act does not apply to the BBC in the way it does to most public authorities in one significant respect. It recognises the different position of the BBC (as well as Channel 4 and S4C) by saying that it covers information “held for purposes other than those of journalism, art or literature”. This means the Act does not apply to information held for the purposes of creating the BBC’s output (TV, radio, online etc), or information that supports and is closely associated with these creative activities.

A great deal of information within this category is currently available from the BBC and will continue to be so. If this is the type of information you are looking for, you can check whether it is available on the BBC’s website bbc.co.uk or contact [BBC Information](#).

The Act does apply to all of the other information we hold about the management and running of the BBC.

The BBC

The BBC’s aim is to enrich people’s lives with great programmes and services that inform, educate and entertain. It broadcasts radio and television programmes on analogue and digital services in the UK. It delivers interactive services across the web, television and mobile devices. The BBC’s online service is Europe’s most widely visited content site. Across the world, the BBC broadcasts radio programmes in 32 languages on the BBC World Service and the 24 hour television service, BBC World News.

The BBC’s remit as a public service broadcaster is defined in the BBC Charter and Agreement. It is the responsibility of the BBC Trust (the sovereign body within the BBC) to ensure that the organisation delivers against this remit by setting key objectives, approving strategy and policy, and monitoring and assessing performance. The Trustees also safeguard the BBC’s independence and ensure the Corporation is accountable to its audiences and to Parliament.

Day-to-day operations are run by the Director-General and his senior management team, the Executive Board. All BBC output in the UK is funded by an annual Licence Fee. This is determined and regularly reviewed by Parliament. Each year, the BBC publishes an Annual Report & Accounts, and reports to Parliament on how it has delivered against its public service remit.

