



J. Casey

Via email: [request-509750-0628224c@whatdotheyknow.com](mailto:request-509750-0628224c@whatdotheyknow.com)

26 September 2018

Dear Sir/Madam

**Request for Information – RFI20181568**

Thank you for your request of 14<sup>th</sup> August 2018 under the Freedom of Information Act 2000 ('the Act') seeking the following information (I have numbered these for ease of reference):

*"1. Please can you provide me all relative information with regards to a member of the public broadcasting live via Facebook/youtube/instagram and whether [sic] of [sic] meets licencing requirements to be viewed.*

*2. Please also provide me minutes/mentions of this subject from meetings, emails and internal memos.*

*3. Whilst its not required under the act as a gesture of good faith could i also have the official [sic] stance on social media live streaming from members of the public or private business and whether [sic] viewing such requires licencing.*

*4. If it is the case where licencing is a requirement can you cite where in the communication act it relates.*

*5. Furthermore can you give details of successful convictions based on live viewing over social media from a member of the publics live broadcast, again only if its deemed to be licenced.*

*6. Lastly if its not a licencing requirement can i have documentation held on file citing the distinction between "live broadcasts from a tv company etc" and "live broadcasts from a member of the public"*

Please note that "TV Licensing" is a trade mark used 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, and by the Post Office in the Isle of Man and Channel Islands. Target Group ('Target') is the supplier for the Simple Payment Plan trial. Marketing and printing services are contracted to Proximity London Ltd. Media services are contracted to Media Planning Limited trading as Havas Media UK. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

As you will be aware, the Act gives a general right of access to all types of recorded information held by public authorities. We are not required to create new information to respond to a request, or give a judgement or opinion that is not already recorded.

#### Information held and cost of compliance

I can confirm under section 1(1) of the FOI Act that we do hold recorded information that is relevant to your overall request. However, please be advised that under section 12 of the FOI Act, we are allowed to refuse to handle a request if it would exceed the 'appropriate limit'<sup>1</sup>. The appropriate limit has been set by the Regulations (SI 2004/3244) as being £450 (equivalent to two and a half days work, at an hourly rate of £25).

We estimate responding to the second part of your request alone would take more than two and a half days - and some of the information considered relevant will be exempt from disclosure under section 42 of the Act (legal professional privilege). The exemption under section 31 of the Act (law enforcement) may also apply. As the remaining parts of your request relate to similar information, we are refusing your overall request in its entirety under section 12 of the Act.

#### Advice and assistance

I am mindful of our duty to advise and assist you under section 16 of the Act and therefore I am happy to provide you with some helpful information outside the scope of the Act.

Firstly, I should explain that you need a licence if you use any device to watch or record television programmes as they are being shown on TV or live on an online TV service, and to download or watch BBC programmes on demand, including catch up TV, on BBC iPlayer. Accordingly, your request is based on the misconception that the online services to which you refer are licensable *per se*. Please be advised that Facebook and YouTube are examples of social media platforms, through which people can consume various online content including content which is licensable because it constitutes a TV programme service.

For your information, Section 232 of the Communications Act 2003<sup>2</sup> stipulates the meaning of a TV programme service. Further information about when a licence is needed in respect of TV programme services available via social media platforms is available in the TV Licensing Telescope 2017 Report at <https://www.tvlicensing.co.uk/about/telescope>. As stated in this report, a TV Licence is not normally required to receive user generated or amateur programmes online.

Additional information about when a licence is required is also available on the TV Licensing website at <https://www.tvlicensing.co.uk/check-if-you-need-one>.

#### **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

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<sup>1</sup> [https://ico.org.uk/media/for-organisations/documents/1199/costs\\_of\\_compliance\\_exceeds\\_appropriate\\_limit.pdf](https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf)

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2003/21/section/232>

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 SK9 5AF. Tel: 0303 123 1113 or see <https://ico.org.uk/>.

Kind regards

Rupinder Panesar

**Freedom of Information Advisor, TV Licensing Management Team**

