

Reference: 759428

Jerin John
Information Rights Adviser
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16 September 2019

Mark Lewis
request-597763-8e215486@whatdotheyknow.com

Dear Mr Lewis,

Freedom of Information: Right to know request

Thank you for your request for information about pirate radio stations in East London.

This was received by Ofcom on 16 August and it has been considered under the Freedom of Information Act 2000 (“the Act”).

You asked:

I would kindly request the following information regarding unlicensed/pirate radio stations broadcasting in the East London area between January 2018 and July 2019 under the Freedom of Information Act.

We hold some information falling within your request. Some of it is provided in this letter. Other parts of it are withheld under exemptions in the Act. I explain as follows.

We manage the electromagnetic spectrum used for wireless telegraphy. Our functions and duties are set out in the Wireless Telegraphy Act 2006 (“the WTA”). These functions include issuing licences to use the spectrum and making exemptions from the need for such a licence in appropriate cases. They also include investigating complaints of interference to wireless telegraphy and providing advice and assistance to those complaining, as well as undertaking criminal investigations and prosecutions.

The offences Ofcom may investigate and prosecute include using the spectrum for wireless telegraphy without a licence or an exemption (or in breach of a licence or an exemption) and causing deliberate interference to wireless telegraphy. In deciding whether to prosecute, Ofcom considers our general duties and a two-stage test:

- Whether, on the evidence, there is a reasonable prospect of conviction; and

- a public interest test.

We also consider alternative ways to deal with unlicensed radio broadcasters. For example, we work with local authorities to remove equipment from buildings, conduct raids and confiscate equipment ourselves and make frequencies available for lawful licensed broadcasting.

Our responses to your request should be considered in the context I have described. Turning to that request, we have interpreted “East London area” to cover areas resident under the “E” postcode, as we do not hold information by the geographic location of London. Please see our responses to your questions below:

1. *Please provide the numbers, and details where possible, of prosecutions against individuals that have taken place between the specified dates.*

We have searched our records between January 2018 and July 2019 and can confirm no individuals have been prosecuted for involvement with Illegal Broadcast stations. Action of other kinds, like that described above, has been undertaken.

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

Following from our response to question 1, the answer is none.

3. *Please list the names of all the unlicensed broadcast stations you know of and the number of times enforcement action has been carried against each of them, including dates and those where no action was taken (e.g. the radio station left the air of its own accord before any action could be taken) clearly showing the method of enforcement used (i.e. studio raid, main transmitter removal, mobile telephones disconnected, website domain name blocking etc).*

We do hold some information falling within your request. Between January 2018 and July 2019 Ofcom conducted a number of investigations where illegal broadcast station transmissions were traced to E postcodes. These related to the following illegal broadcast stations:

- Hitz UK
- Pozitif Radio
- Dem Radyo
- Supreme FM
- Concious Radio
- Hot
- Flames
- GM radio
- Naija FM
- Kool London
- Point Blank FM
- Live FM UK

Where we hold other information falling within this part of your request, we are not disclosing it. It is exempt from disclosure under section 31 of the Act. That provision says that information is exempt where, amongst other things, its disclosure under the Act would, or would be likely to, prejudice the prevention or detection of crime or the apprehension or prosecution of offenders.

In this case, disclosing the information you have requested would disclose the techniques and resources Ofcom may employ to prevent or detect crime and apprehend or prosecute offenders. Were that information made publicly available, offenders would be able to estimate their prospects of being caught and/or be able to plan measures to avoid or frustrate our enforcement action.

In applying this exemption, we have, as required by the Act, had to balance the public interest in withholding the information against the public interest in disclosing it. The attached annex to this letter sets out the relevant parts of the exemption, as well as the factors we considered when deciding where the public interest lay.

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

We have searched our records between 1 January 2018 to 31 July 2019 and can confirm that 17 Illegal Broadcasting operations including visits have been carried out in the E postcode area.

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

For budgeting and accounting purposes, we hold information about costs relating to our activities. For example, in the financial year 2018/19, we spent in the region of £0.8m on spectrum enforcement and related activities. That figure covers a significantly greater number of activities than were involved in dealing with illegal broadcasting in the E postcode area.

We do not, however, hold a breakdown of costs for each case of enforcement action carried out in the relevant area.

- 6. Please give details of any complaints or allegations made by the public or by licence paying broadcasters.*

Where Ofcom receives complaints of illegal broadcasting, or the offence of deliberate interference under section 68 of the Wireless Telegraphy Act 2006 ("the WTA"), we may investigate them. These may reveal the cause of the interference and we may be able to resolve it. The work we do also may lead to a criminal investigation. However, while we do hold this information for the E postcode area, we cannot disclose details of complaints we

receive about illegal broadcasting as this is exempt under section 44 of the Act. Under this section, any information that we hold which is related to this subject is exempt from disclosure as another enactment - in this case section 111(1) of the WTA - prohibits it. This is an absolute exemption under the Act and does not require a public interest test.

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.*

We are not disclosing this information. It is exempt under section 31 of the Act for the same reasons as set out in response to question 3.

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

We have searched our records between 1 January 2018 to 31 July 2019 and can confirm that we do not hold information within the scope of this request.

If you have any queries, please contact information.requests@ofcom.org.uk. Please remember to quote the reference number above in any future communications.

Yours sincerely,

Jerin John

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 exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Corporation Secretary
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: Law Enforcement

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"> • Disclosure could encourage public debate, increase Ofcom accountability for the exercise of our decision-making power and increase confidence in our 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 or avoid enforcement action or procedures. • Disclosure of the information to the public could lead to it being used to facilitate the commission, or hinder or avoid the prevention or prosecution, of crime. |
| Reasons why public interest favours withholding information | |
| <ul style="list-style-type: none"> • We attach weight to the public interest factors favouring disclosure. They are important. We have disclosed some information which could facilitate public debate, increase Ofcom accountability and increase confidence in our activities. • However, we judge that the public interest in withholding further information is greater. Disclosing detailed information about our enforcement activities and strategy could be used by offenders to avoid or counter our enforcement actions and would inhibit and prejudice our enforcement ability. As a result, this may lead to ineffective enforcement action, thereby encouraging a rise in the use of illegal radio equipment and increased interference to radio users. Those negative consequences would be prejudicial to law enforcement and contrary to the public interest. | |