



Information Policy & Compliance
bbc.co.uk/foi

5th April 2013

Request for Information – RFI20130163

Thank you for your request dated 4 February 2013 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

'In respect of the rights conferred by the freedom of Information act, I would like to ascertain the amount of money spent by the BBC on protecting and enforcing their intellectual property rights international.'

You have also indicated that the time period that is of interest to you is 1 January 2009 to 1 January 2013.

I can confirm that the BBC holds information as to the amount of money it has spent protecting and enforcing its intellectual property rights internationally. However I am withholding this information under sections 31(1)(a), (b), (g), (h) and (2)(a) of the Act which relate to compliance with the law, specifically that disclosure would, or would be likely to, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, the prejudice to civil proceedings and the BBC's ability to discharge its public functions in respect of such matters.

I am satisfied in terms of section 2(2) of the Act that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I have considered the public interest test in the section on why information has been withheld below.

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Why information has been withheld

I am required under section 2(2) of the Act to assess whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The following factors are in favour of disclosure:

1. Ensuring that the BBC is exercising its functions appropriately and proportionately; and
2. Ensuring that public funds are being appropriately applied, that is:
 - a. ensuring that the BBC is protecting appropriately its intellectual property assets; and
 - b. ensuring that value for money is being obtained.

I consider that the above public interest factors in favour of disclosure are served by the following:

1. The BBC's patent, design and trade mark applications and registrations are a matter of public record and are available on the respective registers of the countries in which such applications and registrations have been made or obtained. A link to the UK Intellectual Property Office, which records details of the BBC's trade marks, patents and designs applications and registrations is available here: www.ipo.gov.uk;
A link to the European Community Trade Mark and Design databases is here: <http://oami.europa.eu/ows/rw/pages/QPLUS/databases/databases.en.do>
A link to the European Patent Register is here: <http://www.epo.org/>
Other countries also have online websites recording such information which are readily accessible and searchable and on which the fees for applications and registrations of patents, designs and trade marks are published.

In addition, the following factors are in favour of withholding the information:

1. The BBC has a duty to obtain value for money for licence fee payers. Such duty involves providing protecting the intellectual property created by the BBC as a result of licence fee funding, in order to preserve and enhance its value. Such value is enhanced through licensing such intellectual property on a commercial basis to third party licensees. The BBC's ability to do so is supported by ensuring the effective protection and enforcement of its intellectual property and through taking action against infringement of the same. Infringement of the BBC's intellectual property reduces its value to licence fee payers by reducing the BBC's ability to licence it.
2. Part of keeping infringement to a minimum is maintaining uncertainty as to the BBC's protection and enforcement practices. This uncertainty contributes to the deterrent effect which is an important part of the BBC's enforcement strategy.
3. Without an effective deterrent to infringement, infringement would invariably increase. This would be to the detriment of the BBC and to the overall amount of revenue available to the BBC through its licensing activity. In turn this would lead to the BBC having less revenue at its disposal to spend on content.

4. An increase in the rate of infringement would also lead to an increase in enforcement costs, which in turn would lead to a decrease in the available funds to be put towards producing the BBC's content.

In this instance, the public interest is served by maintaining an effective deterrent to intellectual property infringement and thus in turn protecting the BBC's revenue stream and keeping infringement and enforcement actions to a minimum.

There is hence a greater public interest in ensuring the effective protection and enforcement of the BBC's intellectual property than in disclosing the information you have sought. I am therefore satisfied, in terms of section 2 of the Act, that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest (outlined above) in disclosing the information.

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 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, Cheshire, SK9 5AF, telephone 01625 545 700 or see <http://www.ico.gov.uk/>

Kind regards

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