



Information Policy & Compliance
bbc.co.uk/foi bbc.co.uk/privacy

3 April 2013

Freedom of Information request – RFI20130341

Thank you for your request to the BBC of 3 March 2013, seeking the following information under the Freedom of Information Act 2000:

“ Please would you provide me with information on the following:

1) What proportion of the production costs of the Attenborough series ‘Africa’ were paid to organizations or individuals working to conserve and manage the nature, wildlife and landscapes filmed? Please provide this information as a monetary value and as a percentage.

2) Please provide a breakdown of payments that directly support conservation into the following, or similar, categories.

- a) Filming permit fees paid to central government departments*
- b) Filming permit fees paid directly to a governmental park management body*
- c) Filming permit fees paid directly to a private park management body*
- d) Other financial contributions made to support the work of governmental conservation organizations*
- e) Other financial contributions made to support the work of NGO or commercial conservation organizations*
- f) Fees paid to guides or free-lance conservation managers...”*

The information you have requested is excluded from the Act because it is held for the purposes of ‘journalism, art or literature.’ The BBC is therefore not obliged to provide this information to you and will not be doing so on this occasion. Part VI of Schedule 1 to FOIA provides that information held by the BBC and the other public service broadcasters is only covered by the Act

if it is held for ‘purposes *other* than those of journalism, art or literature’. The BBC is not required to supply information held for the purposes of creating the BBC’s output or information that supports and is closely associated with these creative activities.¹

The limited application of the Act to public service broadcasters was to protect freedom of expression and the rights of the media under Article 10 European Convention on Human Rights (“ECHR”). The BBC, as a media organisation, is under a duty to impart information and ideas on all matters of public interest and the importance of this function has been recognised by the European Court of Human Rights. Maintaining our editorial independence is a crucial factor in enabling the media to fulfil this function.

You have requested information about the activities and costs involved in creating a programme broadcast by the BBC. As you are aware, the BBC is only subject to the Freedom of Information Act in respect of information held for purposes *other than* journalism, art or literature. A recent Supreme Court judgement has given a clear definition of what the phrase ‘journalism, art or literature’ means in the Act and what types of information it will cover; the Supreme Court found that, “...the composite expression “journalism, art or literature” seems to be intended to cover the whole of the BBC’s output in its mission (under article 5 of its Royal Charter) to inform, educate and entertain the public. On that comprehensive approach the purposes of journalism, art or literature would be, quite simply, the purposes of the BBC’s entire output to the public.” [70]

This means that, in cases where the requested information is directly related to the creation of the BBC’s broadcasting output, it will fall outside the scope of the Act. Information about costs incurred and activities undertaken in the making of a programme – the output – are created and used for the purpose of managing the production and its associated budget; the information is a key part of the editorial decision making process by which the programme itself is created. It will continue to be held to inform the editorial process of reviewing and planning for future programmes. The Supreme Court made specific reference to information about production costs, saying, “*If financial information is directly related to the making of a particular programme, or group of programmes, it is likely to be held for purposes of journalism ... costs referable to its broadcast of “EastEnders”, about its annual budget for “Newsnight” and about the price paid for its right to cover the winter Olympics in Turin in 2005/06, was held at an operational level in order to assist in the making of editorial and creative choices and so was held partly (and, if relevant, predominantly) for purposes of journalism.*” [42]

¹ For more information about how the Act applies to the BBC please see the enclosure which follows this letter.

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

That said, the BBC makes a huge range of information available about our programmes and content on bbc.co.uk. We also proactively publish information covered by the Act on our publication scheme and regularly handle requests for information under the Act.

Appeal Rights

The BBC does not offer an internal review when the information requested is not covered by the Act. If you disagree with our decision you can appeal to the Information Commissioner. Contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF telephone 01625 545 700. <http://www.ico.gov.uk>

Please note that should the Information Commissioner's Office decide that the Act does cover this information, exemptions under the Act might then apply.

Yours sincerely,

Claire Dresser
Chief Adviser, BBC Television

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, S4C and MG Alba are the only broadcasting organisations 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 Audience Services 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 Audience Services.

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 one of Europe’s most widely visited content sites. Around the world, international multimedia broadcaster BBC World Service delivers a wide range of language and regional services on radio, TV, online and via wireless handheld devices, together with BBC World News, the commercially-funded international news and information television channel.

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.