



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

26 February, 2013

Freedom of Information request – RFI 20130277

Thank you for your request to the BBC of 20 February, 2013 seeking the following information under the Freedom of Information Act 2000 (“the Act”) in respect of Hugo Duncan:

Mr Hugo Duncan of BBC Radio Ulster repeatedly uses BBC Airtime to advertise private work on his own behalf and on behalf of other Show Businesses at Public Venues. For example today, the 20th of February, he has advertised that he is Playing along with another Band at a Belfast Venue tonight. On almost every Radio Show he tells listeners where he is performing that Night; this not only promotes his Business but also promotes the Venue.

As this blatant advertising is funded by the Licence Fee Payer I ask if Mr Duncan is reimbursing the BBC for this? Is the cost of this free advertising factored into his payment? Is the HMRC aware that he is getting “benefit in kind” through this advertising? I humbly point out that Mr Duncan, the other Entertainers he regularly “plugs” as well as the Pubs, Hotels and Clubs he advertises are depriving commercial advertisers of income. They are making a mockery of the claim that the BBC does not do advertising.

As my request is not a “Talent” related issue then you should not have any difficulty answering my request and I eagerly await your reply.

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 the Act 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

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.

The BBC makes a wide range of information available about our programmes and content on www.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

Mark Adair
Head of Corporate & Community Affairs – BBCNI

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 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 Europe's most widely visited content site. Across the world, the BBC broadcasts radio programmes in 33 languages on the BBC World Service and the 24 hour television service, BBC World.

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 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. The Trust is supported by a network of advisory bodies across the UK.

Day-to-day operations are run by the Director-General and his senior management team, the Executive Board. The BBC 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.