

Reference numbers: 1-170267075 / 1-172603335 / 1-173654292

27 April 2011

**By email**

Eleanor Berg  
Information Requests

Mr Michael Trodd  
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Dear Mr Trodd

**Request for Information**

Thank you for your requests for information regarding Power Line Technologies ('PLT'). We have received three letters and have considered these requests under the Environmental Information Regulations 2004 ('EIR').

You asked:

**Request one, reference: 1-170267075**

Ofcom received this request on 2 March 2011.

I apologise for the delay in responding to your request. As explained in my letter of 29 March 2011 Ofcom required this additional time because some of the information requested had to be considered under an exemption under the FOIA which exempts Ofcom from releasing the information, to which a public interest test applies. Subsequent to our correspondence we have now considered your request under the EIR.

In addition to this extension, as explained in my subsequent letter of 21 April 2011, recently we have had a large volume of requests for information regarding PLT and we wanted to provide a full response to them all of them at the same time.

- 1) With regard to the EMC regulations why have you elected not to carry out your statutory duty to protect the radio spectrum from this clear abuse? Particularly in the light of [2] - Mr. ED Vaizey's (the Government Minister for Culture, Communications and the Creative Industries) instructions and assertion that Ofcom will continue to investigate and take action on a case-by-case basis. Please make available to me all documents, policies and directives that have led to this stance.**
- 2) How, despite hundreds of cases of spectrum abuse caused mostly by BT Vision, Comtrend PLT you arrive at your position of September 2009? That there is no evidence. Please make available to me all documents, policies and directives that**

have led to this stance, and say what would make you decide there was sufficient evidence to take enforcement action?

- 3) Please explain in your expert capacity how it is possible to use BT Vision, Comtrend PLT devices in ordinary domestic situations and not cause spectrum abuse? (Note that just because it is not observed does not mean it does not exist). Please make available to me the documents and data that you used to arrive at this conclusion. If you do not hold such data then please say what basis you have for arriving at this conclusion?
- 4) Please say how many installations of BT Vision, Comtrend PLT devices in ordinary domestic situations there are, and are not causing spectrum abuse you are aware of? Please make available to me all documents and test data that you hold showing how this was formally tested or observed.
- 5) Please confirm that it is Ofcom's duty to protect against EMC radio spectrum abuse and not that of the BBC. If this duty has now passed to the BBC please provide details of how this was authorised and which organisation called for and handled the transition and why it was felt necessary?
- 6) Please say why despite my formally presenting you with evidence of radio spectrum abuse (under s37 of the EMC Regs 2006 - [3]) you have refused to investigate and resolve this matter? Please make available to me all documents, policies and directives that have led to this stance.
- 7) Please say how cases of spectrum abuse by PLT devices are being logged and used as part of your 'evidenced based regulator' status, now that the reporting system has been broken and it appears you are trying to hide behind the BBC, which has been shown to be wholly unsuitable and unprepared for cases of this kind? Please make available to me relevant documents and information.
- 8) Please explain exactly the process of gathering evidence regarding PLT spectrum abuse if you are refusing to accept reports from members of the UK public?
- 9) If you are not refusing to accept formal reports under s37 of the EMC Regs 2006 [3] from members of the public, please give clear details of how such reports may be sent direct to Ofcom.

**Request two, reference: 1-172603335**

Ofcom received this request on 31 March 2011.

I refer to the ERA-RFI Tests Comtrend PLT 2008-0578 Ofcom.pdf report that the information commissioner required you to make public.

The report is dated September 2008. Skipping to page 12 the report can be summed up with this quote. "It is considered that the Ethernet power line adaptors do not satisfy the essential requirements of the EMC Directive"

- 1) Please then say why Ofcom, who commissioned this report and were in possession of it continued to publish to its web site statements such as:
- 2) "On the evidence, Ofcom has not so far found that there is a breach of the EMC essential requirements" (dated a full year after the report)?
- 3) Please say why Ofcom in several letters to Mr Nick Gibb MP also continued to say there was no evidence of a breach of the EMC essential requirements?
- 4) Please say why Ofcom have assisted BT by suppressing this report?
- 5) Please say now if you have suppressed any other reports or data indicating that PLT (that you have allowed to market in the UK) Fails the EMC essential requirements?
- 6) Please now justify your stance on PLT as you were aware that these Comtrend PLT devices were causing unacceptable levels of radio interference to not only radio listeners and amateur operators but also to safety of life services and possibly home security services?
- 7) Please explain how Ofcom is an evidence-based regulator yet ignored the evidence and in fact hid it for two years?
- 8) Please now say how you plan to withdraw all PLT from the market and that already installed? From the report: 'Declarations of Conformity for both types of adaptor refer to the EMC Directive 2004/108/EC and refer to standard EN 55022:1998 and CISPR/1/89/CD. The latter was a draft only that has now been withdrawn and should not be referenced on a DoC; the former standard is not complied with based on the testing reported herein. For the Power Grid 902, the DoC refers to Technical Construction File identified as XXXXXXXX, this is not an acceptable reference on the DoC'

Given that it is Ofcom's duty to ensure conformity please explain why you have allowed this breach to continue and detail any action (if any) you took in this regard?

- 9) Please now say just how much evidence Ofcom requires before it will carry out its statutory duty and ban and remove PLT from the market, given this report, the PA

**report, severe concerns by professional radio users and the ever increasing number of interference cases from members of the public?**

**Request three, reference: 1-173654292**

Ofcom received this complaint on 3 April 2011.

Your letter:

My complaints are:

- 1) Ofcom has failed in it's statutory duty to protect the radio spectrum.
- 2) Ofcom has not been impartial in dealing with this matter and in fact has show clear favouritism towards particularly, Comtrend and BT but also other PLT manufactures and those who profit by their sales of the technology and its use.
- 3) Ofcom has directly mislead me regarding the available evidence.
- 4) Ofcom has not been truthful or has sought to suppress known facts in its FOI responses.
- 5) Ofcom has not been truthful or has sought to suppress known facts in its replies to MPs.

The basis for my complaint is

On Friday 7<sup>th</sup> November 2008 Clive Corrie, in a email reply to my questions and comments regarding 'Why is Ofcom failing to take action to remove PLT from sale and use'

Said; *"We have considered your comments regarding the Comtrend/BT product, and generic PLT equipment; and references to provisions that allow for enforcement action to be taken.*

*Ofcom do not consider that the current situation justifies taking enforcement action to remove PLT apparatus from the market. In making this decision, Ofcom have considered our statutory duties and functions included in the Communications Act 2003 and EMC Regulations 2006.*

*For enforcement action to remove PLT equipment to be considered proportionate, Ofcom would need to establish that the apparatus does not meet the EMC essential requirements and generates harmful interference.*

*At this time we consider a proportionate response to be, to deal with the complaints of interference received on as and when they arise on a case-by-case basis"*

It has now become apparent that Ofcom would have had in its possession the report by ERA Technology Ltd, commissioned by Clive Corrie on behalf of Ofcom.

(ERA Report Number: 2008-0578, ERA Project Number: 7G0465206 dated September 2008)

**This report states:** *"It is considered that the Ethernet power line adaptors **do not** satisfy the essential requirements of the EMC Directive"*

and further explains: *"Conducted emissions on both types of Ethernet power line adaptors were similar, the emissions conducted onto the mains measured as common mode from each power line to ground exceeded the limit from 2 MHz to 27 MHz, excluding the discrete notched frequency bands, by between 36.7 and 39.4 dB"*

*Measurements were carried out on the older unit (CH3) and one new unit (CH4). CH3 failed between 480 MHz and 960 MHz by up to 7.3 dB with the two units only and no data transfer and failed between 320 MHz and 960 MHz by 5.88 dB with the full system transferring data. CH4 failed at 31.6 MHz by 7.8 dB with the two units only and no ethernet interface and failed at 239 MHz by 10.88 dB with ethernet cables connected but no data transfer.*

**Further it states that:** *Declarations of Conformity for both types of adaptor refer to the EMC Directive 2004/108/EC and refer to standard EN 55022:1998 and CISPR11/89/CD. The latter was a draft only that has now been withdrawn and should not be referenced on a DoC; the former standard is not complied with based on the testing reported herein. For the Power Grid 902, the DoC refers to Technical Construction File identified as XXXXXXXX, this is not an acceptable reference on the DoC.*

Therefore at the time of the email reply to me or very soon after Ofcom had by its own efforts clear proof that indeed the PLT referred to **does not** meet the EMC essential requirements and generates harmful interference, further to this you had established that the declarations of conformity were invalid at best if not downright criminal!

So at this point in time Ofcom did have a mandate to take action to remove from the market and use, all PLT equipment of the type under discussion yet failed to take this statutory action and instead continued to claim there was no evidence and to suppress the ERA report in favor of Comtrend and BT who were allowed to continue to flood the UK market with this non conformant equipment, but worse Ofcom by its inaction allowed other PLT manufacturers the green light to develop and bring to market other even more spectrum destructive PLT devices such that now safety of life services are under threat!

Further to this when asked via FOI requests and in response to MPs, Ofcom continued (despite this report) to trot out the falsehood that there was no evidence of breaches of the essential requirements!

And to make matters worse you still display the same erroneous claims on your web page <http://stakeholders.ofcom.org.uk/enforcement/spectrum-enforcement/plt/> dated September 2009.

Referring to the PA report that Ofcom commissioned you fail to properly quote the concerns that the report raised! The report says that if mitigation measures are not implemented then there is a high probability of interference issues, however these measures are purely theoretical and not an excuse to ignore current illegal equipment on the market that Ofcom has shown favour to by failing its statutory obligation.

The above forms the basis for my serious complaint against Ofcom.

## **Our response**

In response to these three requests please see the statement and supporting information on PLT matters on the Ofcom website here:

<http://stakeholders.ofcom.org.uk/enforcement/spectrum-enforcement/plt/>.

We have published as much information as possible that relates to PLT; however there is some information that is being withheld whilst we seek consent from the relevant third parties due to potentially commercially sensitive matters. We will update the website with as much of

this information as is possible as soon as we can and will also place all future information online if possible.

We will also be making available online all responses to Freedom of Information Act and Environmental Information Regulations information requests since January 2011.

In response to question three in your second request, reference: 1-172603335,

***Please say why Ofcom in several letters to Mr Nick Gibb MP also continued to say there was no evidence of a breach of the EMC essential requirements?***

Your statement in this question that Ofcom said “there was no evidence of a breach of the EMC essential requirements” is incorrect. Please find attached the correspondence to Nick Gibb MP that you refer to.

Please note some personal information has been redacted under section 13 of EIR. I have also removed your personal email address and personal address as I am aware that this is being published on [www.whatdotheyknow.com](http://www.whatdotheyknow.com).

Please ensure that when using the provided information in any way, you comply with all relevant legislation. For example, the information provided may be protected by copyright under the Copyright, Designs and Patents Act 1988 (as amended). If in doubt, please seek independent legal advice. For Ofcom’s policy on copyright and related issues, please refer to <http://www.ofcom.org.uk/disclaimer>.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

**Eleanor Berg**

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:

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