

Reference: 01407585

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21 January 2022

### Freedom of Information request: Right to know request

Thank you for your request for the list of companies that have made applications for Code Powers which have not yet been granted. Your request was received on 13 January 2022 and we have considered it under the Freedom of Information Act 2000 (the 'FOI Act').

### Your request

*Please can I request a list of companies that have made applications for Code Powers which have not yet been granted?*

### Our response

While I can confirm that we do hold information falling within the scope of your request, we consider that disclosure of this information is exempt under the FOI Act. In particular, section 44(1)(a) of the FOI Act exempts disclosure of information if its disclosure is prohibited by or under any enactment. Section 393 of the Communications Act 2003 (the Act) prohibits the disclosure of information about a particular business which has been obtained in exercise of a power conferred by, among other legislation, the Act, so long as that business continues to be carried on, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Act is met, neither of which applies here. Section 44 of the FOI Act is an absolute exemption and therefore is not subject to a public interest test.

We also consider that other exemptions under the FOI Act would also apply here such as the exemption under section 43(2) of the FOI Act (which states that information is exempt information if its disclosure under the FOI Act would, or would be likely to, prejudice the commercial interests of any person).

If you have any further queries, then please send them to [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk) quoting the reference number above in any future communications.

Yours sincerely

Zach Westbrook

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

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 responding to 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 [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

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