

Reference: 01398454

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13 January 2022

Freedom of Information: Right to know request

Thank you for your request for information in relation to a Panj Pani rejection letter. We received this request on 16 December 2021 and have considered it under the Freedom of Information Act 2000 ("the Act").

You asked

"1. Please provide a copy of the Panj Pani rejection letter for the October 2017 Leicester round.

PLEASE NOTE - As the applicant company has now been dissolved for some time and cannot be resurrected the advice I have been given is that confidentiality no longer applies. Furthermore the test for confidentiality I understand is predicated on the ability of an affected party to bring a claim of damages due to breach of confidence. As the company is dissolved, again this is impossible.

Furthermore the public interest in revealing this information now weighs in favour of releasing this information as the applicant now is dissolved therefore is unable to respond to any requests to supply the information and is not in a position to be able to do so.

We have made exhaustive enquiries to track down a senior person from Panj Pani who is now living abroad. They indicated that they believe all information held was lost when the company was dissolved.

I see no reason why this information cannot be provided as confidentiality no longer is applicable."

Our response

Under section 393 of the Communications Act 2003 there is a disclosure prohibition in relation to information "with respect to a particular business... so long as that business continues to be carried on".

A company may transfer its business to another person and the business continue to be carried on. We therefore wrote to Panj Pani to determine whether or not the business had ceased to be carried on. Based on representations received we believe that section 393 of the Communications Act 2003 is still engaged in respect of information with respect to Panj Pani, notwithstanding the winding up of the Panj Pani Radio Ltd company, and we do not have consent to disclose the letter in response to a Freedom of Information request.

As such we are unable to provide a copy of the individual feedback letter. This information is being withheld as it falls under the exemption in section 44 of the Act. Section 44 exempts the disclosure of information which is prohibited by another enactment. In this case, we are prohibited under section 393 of the Communications Act 2003 from disclosing information which relates to a business (in this case, Panj Pani), which we have obtained in exercise of our powers in relation to broadcast standards, unless we have the consent of that business or one of the statutory gateways for disclosure under section 393(2) is met, neither of which applies here. Section 44 is an absolute exemption under the Act and does not require a public interest test.

If you have any queries, then please contact information.requests@ofcom.org.uk. Please remember to quote the reference number above in any future communications.

Yours sincerely,

Eleanor Scott

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.

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