

Reference: 01522872

Temiloluwa Dawodu
Information Rights Advisor
information.requests@ofcom.org.uk

18 November 2022

Freedom of Information: Right to know request

Thank you for your request for information in relation to the research document 'Pricing trends for communications services in the UK', published 17 May 2018. We received this request on 25 October 2022. We have considered it under the Freedom of Information Act 2000 (the "FOI Act").

Your request and our response

You requested in electronic form the following:

Data provided by Teligen to create 'Figure 12', on page 20, of the above document, regarding the differences in the payment plans for bundled and unbundled payment plans¹.

The data that you have requested was purchased from Teligen and we consider that this information is exempt from disclosure under section 43(2) of the FOI Act. This exemption deals with information that, if disclosed, would, or would be likely to, prejudice the commercial interests of any person including the public authority holding it. In applying this exemption, we have had to balance the public interest in withholding the information against the public interest in disclosing the information. In this case, we consider that the public interest favours withholding the information.

The attached Annex A to this letter sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

Data used to conclude, on page 20 of the research document, that "the total cost of ownership when acquiring the same handset from a provider along with a post pay mobile service was significantly higher." Footnote 19 of the same document states that this conclusion "was based on analysis of pay-monthly contract tariffs..."².

¹ Referenced on page 20 of the Research Document: "[Pricing trends for communications services in the UK.](#)" Published 17th May 2018.

² Referenced on page 20 of the Research Document: "[Pricing trends for communications services in the UK.](#)" Published 17th May 2018.

All the data used for the analysis can be found in Figure 13 on page 21 of the report. However, it should be noted that:

1. There was an error in the calculation of the APRs in the table which came to light when the analysis was updated for a subsequent report. The APRs in the 2018 report are overstated and should be as follows: Operator 1 – 32% (not 40%); Operator 2 – 20% (not 22%), Operator 3 – 25% (not 28%); Operator 4 – 24% (not 28%); and
2. An oversight meant that the footnote was not amended when the analysis was updated prior to publication, and it should say “...between 4 and 12GB of data” rather than “...between 8 and 15GB of data”.

This analysis is only based on one bundled tariff and one SIM-only tariff offered by each of the four main mobile providers and its scope is therefore limited.

Data used by Ofcom to reach the conclusion, in the first paragraph of page 22 of the Research Document, that 20 million consumers had a ‘bundled’ contract including a handset and airtime³.

This is based on data collected by Ofcom under its formal powers from nine of the UK’s largest mobile providers. As such we cannot disclose this information as we consider that it is exempt from disclosure under section 44 of the FOI Act. This exemption provides that information is to be withheld if its disclosure is prohibited under other legislation – in this case section 393(1) of the Communications Act 2003 (the “Communications Act”).

Section 393(1) of the Communications Act prohibits the disclosure of information about a particular business, which we have obtained in the course of exercising a power conferred by, among other legislation, the Communications Act, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Communications Act is met, neither of which apply here. Section 44 is an absolute exemption under the Communications Act and does not require a public interest test.

Ofcom Switching Tracker⁴ data on pages 22, 45 and 46 of the research document referring to ‘bundled’ contracts and consumer action, regarding continuing to pay for handsets, after the end of the contract period used to reach to the conclusions in the Research Document.

You said: please note that we have attempted to download this data from Ofcom’s open data page. Unfortunately, we do not have variable descriptions for each year, 2015 is only provided in aggregated form and we are unable to convert the 2017 raw data file provided in ASC file format.

CSV data for 2017, CSV data for 2015 and the code book for 2015 are attached. The code book for 2017 is available on the [Ofcom Market Research Open Data page](#).

³ Referenced on page 22 of the Research Document: “[Pricing trends for communications services in the UK](#).” Published 17th May 2018.

⁴ Referenced on page 22 in footnote 26; page 45 in regard to Figure 32; and on page 46 in regard to Figure 33.

The data and analysis used to reach the figure of 1.5 million people overpaying by £330 million a year, as stated in the Research Document⁵.

The data in the 2018 Pricing Trends report is an early Ofcom attempt at estimating how much out-of-contract bundle handset and airtime customers might be overpaying for their mobile service annually. It was calculated using:

- A. Data from Ofcom’s switching tracker which suggested that 6% of pay-monthly mobile customers who received a handset with their mobile contract continued to pay their full monthly charge after the end of their contract, rather than switching to a cheaper SIM-only service. Based on the whole UK adult population, this equated to around 1.5 million customers⁶; and
- B. An Ofcom estimate of the average monthly cost of a handset when acquired with a pay monthly mobile service which used commercially sensitive data collected by Ofcom under its formal powers. The estimated figure (£18.52) was calculated by subtracting the average spend of pay-monthly SIM-only customers from the average spend of pay-monthly airtime and handset customers.

$$£18.52 \times 1,500,000 \times 12 \text{ (months)} = \text{c£330m}$$

This is a basic way of calculating the overpayment which has been superseded by more sophisticated Ofcom analysis using more granular datasets. In particular, the monthly handset cost was overstated when compared to more reliable figures that were calculated using customer-level data. As such, the lower figures subsequently published by Ofcom are much more robust than the £330m quoted in the 2018 Pricing Trends for communications services in the UK report:

- Our [Helping consumers to get better deals in communications markets: mobile handsets](#) publication from September 2019 says: “around 1.4 million would save money if they switched to a cheaper SIM-only deal. Our detailed analysis shows these customers are collectively overpaying around £182m a year – less than our initial estimate of £330m”; and
- Our November 2021 [Helping customers get better deals report](#) says: “The total amount by which bundled out-of-contract customers overpay relative to comparable SIM-only prices has reduced significantly from £182m in 2018 to £83m in 2020 since the commitments we secured came into effect”.

The main reason for the differences between these figures and the £330m are: (1) the methodology for calculating the price difference between handset and airtime and SIM-only tariffs and (2) the granularity and accuracy of information on length of time customers were out-of-contract.

⁵ Referenced on page 3 of the Research Document: “[Pricing trends for communications services in the UK.](#)” Published 17th May 2018.

⁶ This figure is higher than if the 6% were applied to the >20 million figure mentioned previously (which would give >1.2 million). This is as expected, as the >20 million figure only includes customers of the nine mobile companies that provided data to Ofcom for use in the 2018 Pricing Trends report.

The data we used to form this analysis and our conclusion is exempt from disclosure by virtue of section 44 of the FOI act (for the reasons stated above).

I hope this information is helpful. 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,

Temiloluwa Dawodu

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

Annex A

Section 43(2) of the FOI Act provides that:

Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Factors for disclosure

- Disclosure of the data requested would facilitate transparency thereby increasing public confidence in Ofcom’s work.
- Enabling the public to gain a better understanding of the commercial relationships between Ofcom and its suppliers and the nature of the services purchased.

Factors for withholding

- The data was purchased from the supplier to be used for Ofcom purposes. By disclosing the material, we would be undermining their commercial interests as their competitors and potential customers wishing to obtain the data would be able to access the material once disclosed to the supplier’s detriment.
- Ofcom contracts with a number of suppliers regularly and has commercial relationships with them. Suppliers need to be confident that information relating to their business, such as information relating to their products or services, will not be disclosed if it would, or would be likely to, prejudice their commercial interests.

Reasons why public interest favours withholding information

- We consider that, on balance, the public interest in withholding disclosure of the requested information outweighs the public interest in disclosing the information.
- Ofcom enjoys a positive relationship with those providers of services/suppliers it contracts with. The release of information which would, or would be likely to, prejudice these supplier's commercial interests, into the public domain would impair Ofcom's relationship with suppliers. If suppliers could not be confident that such information provided by them to Ofcom would be withheld from disclosure, except in compelling circumstances, commercial activity may be impeded, and this would also likely affect Ofcom's ability to carry out its functions effectively.
- Weighing the issues presented, it is considered that on balance, the factors for withholding the requested information outweigh those for disclosing the information.