

Reference: 01828067

Information Requests
information.requests@ofcom.org.uk

24 July 2024

Freedom of Information request: Right to know request

Thank you for your request for information about The Creative Industries Independent Standards Authority (CIISA).

We received this request on 29 May 2024 and we have considered your request under the Freedom of Information Act 2000 ("the FOI Act").

Your request

"Please send to me all of the materials you hold and all of the communications you have had in connection with the body that is now called The Creative Industries Independent Standards Authority (CIISA), including when it was known as the Independent Standards Authority (ISA)"

Our response

We have identified items in scope of your request. These items fall into the following categories:

1. We hold a small number of meeting notes, meeting materials and emails between the CIISA and Ofcom where confidential information and/or documents were shared and discussed between a closed circle. We consider these items to be exempt from disclosure under section 41 of the FOI Act. Section 41 exempts the disclosure of information if it was obtained by the public authority from any other person (including another public authority), and the disclosure of the information to the public (otherwise than under the FOI Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.
2. We also hold a small number of emails between Ofcom and CIISA where ideas/planning and confidential information was exchanged. We consider that these emails are exempt from disclosure under section 36 of the FOI Act. In particular, sections 36(2)(b)(ii) and (c) of the FOI Act which provide that information held by a public authority is exempt from disclosure if, in the reasonable opinion of a qualified person, disclosure of the information –
 - Would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, or
 - Would otherwise prejudice, or would be likely to otherwise to prejudice, the effective conduct of public affairs.

Section 36 is a qualified exemption, which means that Ofcom is required to consider whether or not the public interest in disclosing the information you have requested outweighs the

public interest in withholding the information. In this case, we consider that the public interest favours withholding the information for the reasons set out in Annex B to this letter. In Annex A of this letter, the qualified person, the Corporation Secretary for Ofcom, has confirmed that the exemption applies.

3. We also hold a small number of emails from CIISA forwarding press releases/articles and publications which we have included in our response to this request. Please note that any personal information has been redacted in the items disclosed as Section 40(2) of the FOI Act, provides that personal information about persons other than the requester is exempt where its disclosure would contravene any of the data protection principles in the UK General Data Protection Regulation and the Data Protection Act 2018. Section 40 is an absolute exemption under the FOI Act and does not require a public interest test.

We hope this information is helpful. If you have any further queries, then please send them to information.requests@ofcom.org.uk – quoting the reference number above in any future communications.

Yours sincerely,

Information Requests

Request an internal review

If you are unhappy with the response you have received to your request for information, or think that your request was refused without a reason valid under the law, you may ask for an internal review. If you do, it will be subject to an independent review within Ofcom. We will either uphold the original decision, or reverse or modify it.

If you would like to ask us to carry out an internal review, you should get in touch within two months of the date of this letter. There is no statutory deadline for us to complete our internal review, and the time it takes will depend on the complexity of the request. But we will try to complete the review within 20 working days (or no more than 40 working days in exceptional cases) and keep you informed of our progress. Please email the Information Requests team (information.requests@ofcom.org.uk) to request an internal review.

Taking it further

If you are unhappy with the outcome of our internal review, then you have the right to [complain to the Information Commissioner's Office](#).

Annex A

Freedom of Information: Right to know request

Section 36 exemption

The information we hold that falls within the scope of your request is being withheld as it falls under the exemption in section 36 of the Freedom of Information Act 2000 (the Act). I am a "qualified person" as referred to section 36(2) of the Act and duly authorised by a Minister of the Crown for the purposes of that section. The limbs of section 36 that apply here are:

- (2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—
 - (b) would, or would be likely to, inhibit—
 - (i) the free and frank provision of advice, or
 - (ii) the free and frank exchange of views for the purposes of deliberation, or
 - (c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

In my reasonable opinion, section 36 of the Act is engaged.

I have set out in Annex B the exemption in full, as well as the factors considered when deciding where the public interest lay in relation to the information concerned.

If you have any queries about his letter, please contact information.requests@ofcom.org.uk.

Corporation Secretary

Annex B

Section 36: Prejudice to Effective Conduct Of Public Affairs

Section 36 exempts information whose disclosure would, or would be likely to, have any of the following effects:

- inhibit the free and frank provision of advice,
- inhibit the free and frank exchange of views for the purposes of deliberation; or
- prejudice the effective conduct of public affairs.

Key points:

- Section 36 can only be used if, in the **reasonable view of a "qualified person"**, disclosure of the requested information would have one of the specified effects.
- The application of section 36 is subject to a public interest balance.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none"> • The desirability of citizens being confident that decisions are taken on the basis of the best available information; • Knowledge that the arguments relating to a debate will be disclosable may improve the quality of those arguments. 	<ul style="list-style-type: none"> • Ofcom, as a sector regulator, depends heavily on its on-going relationship with Stakeholders. Stakeholders would be less willing to come forward and discuss necessary policy issues with Ofcom employees, and would be less willing to be open in any discussions, if they knew that what they said to us would be made public. • In addition, to regulate effectively, Ofcom needs to be able to think through all the implications of particular policy options and undertake without prejudice rigorous and candid assessments.

Reasons why public interest favours withholding information

A consequence of disclosure would be that stakeholders would be less likely to come forward and discuss important policy issues, and be less open, with Ofcom. Ofcom would therefore be less able to gauge Stakeholders’ views as to how effective its regulation is. Also to disclose internal correspondence would mean that Ofcom employees would be less likely to discuss policy issues openly and explore all possible regulatory options. These factors would in turn lessen Ofcom’s ability to meet its statutory obligation to ensure its regulation is effective and appropriate. This would be against the public interest.