

Reference: 02089745

Information Requests  
[information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

20 November 2025

## Freedom of Information request: Right to know request

Thank you for your request for information concerning FOI cases with the commercial interest exemption.

We received this request on 13 October 2025. We sought clarification of your request on 23 October 2025 and you responded the same day. We have considered your request under the Freedom of Information Act 2000.

### Your request

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*"Could you provide a list of the dates of (month and year if possible) and topic matters/subjects for FOI requests in which Ofcom has relied (and not changed by internal review but may or may not have been changed by appeal etc. further to the ICO) on commercial interests claiming release of the information would affect its relationships with its commercial stakeholders (which may be defined by me as any organisations it regulates). The topic matters/summaries of the requests to relate only to the aspects of a request to which the argument was made by Ofcom, although this may be the full request if the exemption and argument was applied to all the information requested in request correspondence. Can you indicate where an ICO appeal has been lodged as far as known to Ofcom, that is either ICO has been contacted for an appeal there regardless of whether taken up yet or not. Info Tribunal stages may or may not have been reached or may indeed never have been pursued - the ICO may or may not have made a decision but the disclosure of this part of the information I am requesting is intended merely to alert me if there has been any follow up following the Ofcom response. The request (this one by me being made here) includes initial responses that have either not had any challenge or have but the internal review has not been decided, as well as internal reviews that have upheld the original response and/or have substituted anew a reliance on commercial interests and the arguments along the lines of compromising stakeholder relationships as justifying withholding according to Ofcom.*

*Info relating to requests is requested for the last five years, may start at the start of 2021 for a precise timeframe (covers to now at this time in October 2025)."*

Clarified on 23 October 2025 as:

- 1) Are you seeking all FOI requests where we have applied S43 exemption to all or part of the request since Jan 2021 by year and month? *"- The answer may be no - if there has been an Ofcom internal review it which it has dropped relying on section 43. The request covers Ofcom reliance on section 43 where no internal review has been completed. It also covers reliance on section 43 originally which has been maintained at the internal review. And reliance on section 43 for the first time at an internal review that wasn't originally relied on."*

- 2) Are you asking about any ICO appeals where we have used S43 in our FOI response? “Yes”
- 3) Which internal review information are you seeking? Do you mean internal reviews conducted by Ofcom or reviews conducted by the ICO? “Ofcom - see 1 above.”

*“reliance on section 43 where no internal review has been completed. This also includes where one was never even requested. Therefore all reliances on section 43 where no internal review was requested are covered.”*

Are you seeking all FOI requests where we have applied S43 exemption to all or part of the request since Jan 2021 by year and month? “- If there has been no internal review in this period in which Ofcom completely dropped relying on section 43 then the answer is yes.”

## **Our response**

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Please find attached, a list of cases, covering the last 5 years, where Ofcom applied the commercial interest exemption, Section 43. The list shows those cases which went to Internal Review and the result of that internal review as to whether Section 43 was upheld or dropped.

We do not hold, in an easily accessible format, a record of the number of cases which went to, or didn't go to, the ICO after Ofcom had upheld Section 43 following internal review. However you may wish to search through the previous decisions that ICO publish here: [Decision notices | ICO](#) – you can search by particular public bodies and exemptions.

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](mailto: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](#).