

Reference: 577375

Jerin John
Information Rights Adviser
Information.requests@ofcom.org.uk

18 September 2018

Freedom of Information: Right to know request

Thank you for your request for information where you asked about wireless jamming equipment. This was received by Ofcom on 25 August and it has been considered under the Freedom of Information Act 2000 (“the Act”).

You asked:

Can you please tell me for the years 2016, 2017 and the year to date, how many investigations have OFCOM undertaken into the use of wireless jamming equipment, and what the results of those investigations were.

Ofcom holds information falling within your request. Some of it is provided in this letter. Other parts of it are withheld under exemptions in the Act. I explain as follows.

Ofcom manages the electromagnetic spectrum used for wireless telegraphy. Our functions and duties are set out in the Wireless Telegraphy Act 2006 (the “WTA”). These functions include issuing licences to use the spectrum and making exemptions from the need for such a licence in appropriate cases. They also include investigating complaints of interference to wireless telegraphy and providing advice and assistance to those complaining, as well as undertaking criminal prosecutions.

The offences Ofcom may prosecute include using the spectrum for wireless telegraphy without a licence or an exemption (or in breach of a licence or an exemption) and causing deliberate interference to wireless telegraphy. In deciding whether to prosecute, Ofcom considers our general duties and a two-stage test:

- whether, on the evidence, there is a reasonable prospect of conviction; and
- a public interest test.

In relation to wireless jamming equipment, the function of which is to cause interference to wireless telegraphy, Ofcom has not issued any licences for its lawful use. The use of jamming equipment may also involve the offence of deliberate interference (under section 68 of the WTA). Where Ofcom receives complaints of interference, we may investigate them. These may reveal the cause of the

interference and we may be able to resolve it. The work we do may also lead to a criminal investigation.

Between 1 January 2016 and the present, we have investigated 9 cases in which interference was, or appears to have been, caused by jamming equipment. Of those, 1 was carried out in 2016, 4 in 2017 and 4 in 2018. In these cases, we took action to stop the use of the equipment and resolve the interference.

Unfortunately, we cannot disclose further information about the results of the investigations. In particular, whether they resulted in criminal investigations and prosecutions. This is information which relates to law enforcement and the functions of a public authority. It is withheld as it falls under the exemption in section 31 of the Act.

In applying the relevant exemption, we have had to balance the public interest in withholding the information against the public interest in disclosing it. The attached annex to this letter sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

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,

Jerin John

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

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 undertaking 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:

Jacqui Gregory
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

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

Section 31: Law Enforcement

Section 31 exempts information if disclosure would or would be likely to prejudice, among other things:

- the prevention or detection of crime
- the apprehension or prosecution of offenders

Section 31 is subject to a public interest balance.

Factors for disclosure

- Disclosure could encourage public debate, increase Ofcom accountability for the exercise of our decision-making power and increase confidence in our regulated activities.

Factors for withholding

- Disclosure of the information to the public could lead to it being used to facilitate the commission, or hinder the prevention or prosecution, of crime.

Reasons why public interest favours withholding information

- We attach weight to the public interest factors favouring disclosure. They are important. We have disclosed some information which could facilitate public debate, increase Ofcom accountability and increase confidence in our activities.
- However, we judge that the public interest in withholding further information is greater. Disclosing more detailed information would show how often a law is enforced by way of prosecution. That could give those who may consider committing offences an indication of their chances of being caught and encourage them to do so. Those negative consequences would be prejudicial to law enforcement and contrary to a strong public interest.