

Reference: 577301

Jerin John
Information Rights Adviser
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24 October 2018

Freedom of Information: Right to know request

Thank you for your request for information about Al Jazeera, which was received by Ofcom on 24 August and has been considered under the Freedom of Information Act 2000 (“the Act”).

You have requested the following information:

1. *Any correspondence between Ofcom and the Department of Culture, Media and Sport [“DCMS”] regarding the media company Al Jazeera or any of its channels (including Al Jazeera Arabic) since 5th June 2017;*
2. *Any correspondence between Ofcom and the Home Office regarding the media company Al Jazeera or any of its channels (including Al Jazeera Arabic) since 5th June 2017;*
3. *Any correspondence between Ofcom and Al Jazeera or any of its channels (including Al Jazeera Arabic) since 5th June 2017; and*
4. *Details of any investigations conducted by Ofcom into Al Jazeera or any of its channels (including Al Jazeera Arabic) since 1st January 2015.*

Regarding points 1 and 3 above, we have searched our records from 5 June 2017 to 24 August 2018 and can confirm that Ofcom does hold some information that falls within the scope of your request. I attach a pdf document containing the requested information, insofar as it may be disclosed to you. Ofcom does not hold any information requested in respect of point 2 above.

Regarding point 4 above, this is information which is publicly available on our website as we publish our Broadcast Standards complaints in the Broadcasting Bulletin:

https://www.ofcom.org.uk/_data/assets/pdf_file/0033/106989/issue-338-broadcast-on-demand-bulletin.pdf. In this issue, we investigated complaints made about *The Lobby*, which was broadcast

by Al Jazeera English. However, other information in relation to these complaints is exempt from disclosure under section 44 of the Act. I have explained the application of this exemption later in the letter.

Redactions to the correspondence

Some of the information you have requested contained mention of matters falling outside the scope of your request. Where this is the case, we have redacted this.

We have also removed certain information that falls within the scope of points 1, 3 and 4 in accordance with exemptions from disclosure that are provided for under the Act, as follows:

- Some information is subject to the prohibition on disclosure set out in section 393 of the Communications Act 2003 and is, therefore, exempt from disclosure under section 44 of the Act. This is because the correspondence contains information about a business which we have obtained in the exercise of our powers under the Communications Act 2003 and the Broadcasting Act 1990. We are prohibited from disclosing this information to you in response to your request unless we have the consent of that business. Section 44 is an absolute exemption under the Act and does not require a public interest test;
- Some information contains personal data, including the names and contact details of staff at Ofcom and DCMS. Section 40(2) of the Act provides that personal data which relates to persons other than the requester is exempt where, amongst other things, its disclosure would contravene any of the data protection principles in the General Data Protection Regulation and the Data Protection Act 2018. Those principles include that personal data must be processed fairly and lawfully. This is an absolute exemption and is not subject to a public interest test; and
- Ofcom considers that some of the information is exempt from disclosure pursuant to Section 36 of the Act for the reasons set out in the attached Annexes to this letter. In Annex A to this letter, the Corporation Secretary confirms it is not in the public interest to release this information.

Other exemptions may apply.

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:

Corporation Secretary
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 A

Freedom of Information: Right to know request

Section 36 exemption

A part of the information you requested is being withheld as it falls under the exemption in section 36 of the Freedom of Information Act.

I am a "qualified person" as defined in section 36(2) of the Freedom of Information Act 2000 and duly authorised by a Minister of the Crown for the purposes of that section. In my reasonable opinion, disclosure of the information requested would, or would be likely to, prejudice the effective conduct of public affairs.

Also, in applying this exemption I have had to balance the public interest in withholding the information against the public interest in disclosing the information.

I have set out in Annex B the exemption in full, as well as the factors I considered when deciding where the public interest lay in relation to the information concerned. If you have any queries about this letter, please contact information.requests@ofcom.org.uk.

Signed 

Date..... 24 - 10 - 18

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; and
- 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 Ofcom being transparent and accountable in the exercise of our functions. 	<ul style="list-style-type: none"> • Ofcom, as a regulatory authority, often needs to provide technical or policy information to other authorities including (but not limited to) Government, in order for them to carry out their functions in the public interest. In order to do this, it is often necessary for those bodies to provide background and contextual information to Ofcom, to enable Ofcom to understand what is needed. If, due to concerns about that information being made public, these bodies were to restrict or narrow the information they provided to us, it would have a negative impact on the ability of public authorities to pursue their duties effectively.

Reasons why public interest favours withholding information

Ofcom, as a regulatory authority, often needs to provide technical or policy information to other authorities including (but not limited to) Government, in order for them to carry out their functions in the public interest. In order to do this, it is often necessary for those bodies to provide background and contextual information to Ofcom, to enable Ofcom to understand what is needed. It is strongly in the public interest that such communications be engaged in freely and frankly, in order to inform debate and secure the effective conduct of public affairs. If, due to concerns about that information being made public, these bodies were to restrict or narrow the information they provided to us, it would have a serious impact on the ability of public authorities to pursue their duties effectively. On balance, the importance of transparency is outweighed in this case by the importance of the effective conduct of public affairs.