

Reference: 399154

12 April 2017:

Julia Snape
Information requests

information.requests@ofcom.org.uk

Freedom of Information: Right to know request

Thank you for your request for information dated 17 March 2017 asking for correspondence between Ofcom and the Home Office, which Ofcom has considered under the Freedom of Information Act 2000 (the Act).

You asked:

“Please send me copies of all emails between the Home Office and Ofcom during the recent consultation on SIM gateways ('COSUGs') up to the date of this request. If this breaches the time or cost limits, please exclude the most recent emails. I would like to receive these in PDF format by email.”

We have assumed that your request relates to Ofcom's consultation on the authorisation regime for commercial multi-user gateways, published on 16 December 2016 (the Consultation). I am writing to confirm that Ofcom has now completed its search of relevant documents. Please find attached:

- a. Email from Ofcom – 22 December 2016
- b. Email from Home Office – 22 December 2016
- c. Email from Home Office – 10 February 2017
- d. Email from Home Office – 10 February 2017
- e. Email from Ofcom – 20 February 2017
- f. Email from Ofcom – 24 February 2017
- g. Email from Home Office - 6 March 2017
- h. Email from Ofcom - 6 March 2017

Redactions have been made to limited parts of the attached documents which relate to personal data. This information is being withheld as it falls under the exemption section 40 of the Freedom of Information Act 2000, which relates to personal information and which provides that such information is exempt for the purposes of the Act.

One of the redactions falls under the exemption in section 36 of the Act on the grounds that disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation. In applying this exemption we have had to balance the public

interest in withholding the information against the public interest in disclosing the information as set out in Annex B. In the letter in Annex A, Steve Gettings as a “qualified person” confirms that in his reasonable opinion it is not in the public interest for Ofcom to disclose the information you requested.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

Julia Snape

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 exception cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Steve Gettings
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 A

Freedom of Information: Right to know request

Section 36 exemption

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, inhibit the free and frank provision of advice and exchange of views for the purposes of deliberation, and so 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 this case.

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

SignedSteve Gettings.....

Date.....12 April 2017.....

Steve Gettings
Secretary to the Corporation
Ofcom

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"> • Stakeholders, including government departments, 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. • 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 disclosing internal correspondence would mean that stakeholders would be less likely to discuss important policy issues openly. 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.

