

Freedom of Information: Right to know request

Thank you for your request for information dated 17 August asking for “[disclosure] of all minutes, memos and correspondence, both internal and external, regarding Mobile Termination Rates (MTR’s) on Mobile Number Ranges in the year of 2017”. This has been considered under the Freedom of information Act 2000 (‘the Act’).

By way of background, Ofcom has carried out a number of pieces of work in 2017 in relation to Mobile Termination Rates (‘MTRs’). Most relevant, there is an ongoing market review on the regulation of Mobile Call Termination in the UK. A consultation was published at the end of June (open until 5th September) and is available here. Ofcom has also carried out an own initiative monitoring and enforcement programme into compliance with MTR caps, and this is available here.

Turning to your request, we can confirm that Ofcom holds information falling within its scope. However, that information is not readily accessible as a considerable amount of time would be needed to locate, retrieve, identify and extract it. Section 12 of the Freedom of Information Act 2000 provides that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “appropriate limit”.

The appropriate limit is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, and is, for Ofcom, £450. That sum is intended to cover the estimated costs involved in determining whether Ofcom holds the information requested, identifying, locating, retrieving and extracting the information from any document containing it (the “relevant tasks”). The Regulations provide that costs are to be estimated at a rate of £25 per person per hour. In other words, if the relevant tasks would take Ofcom staff more than 18 hours, the costs of complying with the request would exceed the appropriate limit.

Applying those points here, approximately 20 Ofcom staff working on the market review and the monitoring and enforcement programme referred to above would have frequently communicated with each other internally, and would have also engaged with a large number of external stakeholders in the course of their work. In addition, as the request is broadly drafted to cover MTRs on Mobile Number Ranges generally, it is also possible that they (MTRs) have been considered in a wide range of Ofcom’s other work. As a result, we will hold a considerable amount of information – likely to be contained in hundreds, if not thousands, of documents - falling within the scope of your request. That information will be held in the email accounts of the relevant staff, in paper files and on Ofcom’s central information storage system, amongst a very large amount of other information relating to the relevant, and other, projects.

In order to ensure we respond to your request fully and accurately, our searches would need to encompass at least the number of staff referred to, to determine the information Ofcom holds, before identifying, locating, retrieving and extracting it. We estimate that it would take at least 18 hours to do this. Given the numbers of documents likely to be involved, it is reasonable to assume that each of the staff involved would, on average, spend more than an hour each on the relevant tasks. As such, the cost of complying with your request will exceed the appropriate limit and we will therefore not be able to provide any information in response to it.

However, if you wish to submit an alternative request with a narrower, more specific scope in relation to this subject (such as by reference to narrower categories of documents and/or a specific time period), we would be happy to give it our full consideration. Please note though, with any information requested, exemptions may apply. In this particular case, exemptions

may apply where information relates to a business or is information, which if disclosed, would or would be likely to prejudice the effective conduct of public affairs.

Yours sincerely,
Information Requests

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:

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