

## **Freedom of Information: Right to know request**

### **Request for information – compensation for lack of broadband**

Thank you for your request for information about the above. We received it on 10 April and have considered it in accordance with the Freedom of Information Act 2000 (the “FoIA”).

#### **Your request**

You asked:

*“Can you please tell me how much compensation service holders have received (most recent results for 30 service holders should be sufficient) after 56 days of no service, thank you.”*

#### **Our response**

We are not sure whether you were asking for information about compensation paid by:

1. retail communications providers to their retail customers (e.g. consumers); or
2. wholesale providers, such as BT Openreach, to other communications providers in respect of wholesale services (e.g. in respect of the wholesale services they buy from BT Openreach in order to provide services to their retail customers).

We think it likely from the terms of your request that you meant the latter. However, in the interests of responding promptly to you, we have considered both.

#### **Retail compensation**

Ofcom does not hold information about the amount of compensation retail providers have paid to retail customers after being without service for 56 days.

#### **Wholesale compensation**

We also do not hold information about the amount of compensation wholesale providers have paid to wholesale customers that falls within your request. That is, information about how much compensation they have paid to 30 wholesale customers after being without service for 56 days.

Though it does not appear to us to be quite what you asked for, we do hold information about the amount of compensation BT Openreach has paid to BT’s retail division and to other communications providers for delayed repairs where the delay was more than 56 days. We do not hold the same information about the compensation paid for the delayed provision of services where the delay exceeded 56 days.

I am afraid that we do not, however, disclose that information to you. We are unable to, as I explain below, and the information is being withheld as it falls under the exemption in section 44 of the FoIA.

Section 44 states that information is exempt if its disclosure is prohibited by or under another enactment (e.g. another Act of Parliament). In this case, section 393 of the Communications Act 2003 prohibits disclosure of information relating to a business, unless that business consents or the disclosure would fall within one of a number of statutory gateways defined in

that section. For example, we can disclose information where doing so helps us exercise one of our regulatory functions.

The information here relates to BT (its Openreach and retail divisions) and other providers. We do not have their consent to disclose the information, and nor would the disclosure fall within one of the other statutory gateways. We may not therefore disclose it.

For further information on section 44 of the FoIA, please see:  
<http://www.legislation.gov.uk/ukpga/2000/36/section/44>.  
It is likely that other FoIA exemptions would also apply.

### **Other information**

Ofcom has published some information similar to that you requested. In particular, in a consultation document we published in March this year about quality of service issues,<sup>1</sup> we made estimates of the potential costs to BT Openreach of (i) increasing the maximum periods for which it could have to pay compensation for late installations of services and late repairs (increasing them to 120 days from 60) and (ii) removing those limits altogether. This document contains such information as we are able to publish on these matters in light of our regulatory functions, the provisions of section 393 of the 2003 Act and our confidentiality obligations.

<sup>1</sup>

I hope this information is helpful. If you have any further questions, please contact Ofcom at [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk).

#### 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