

19 March 2018

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

Thank you for your request for information about *'the Directory Enquiries (DQ) market and/or Ofcom's review of the UK DQ market'*. This request was received by Ofcom on 17 February 2018 and it has been considered under the Freedom of Information Act 2000 (the 'Act').

You said the request is made in the context of Ofcom's review of the DQ market ('118 Call Cost Review') although this does not limit the scope of the request. You stated that its scope is:

*(a) The terms of reference or scope of any market/consumer research undertaken or commissioned by Ofcom in relation to the DQ market in the last 2 years.*

*(b) Full details of sample size and programming of any such research carried out over the relevant period.*

*(c) Full details, to the extent to which they were collected in the research, of 118 service users found within samples and the instance of repeat 118 service users within that group.*

*(d) Full details of the questions asked to surveyed consumers, both 118 users and non-users.*

*(e) Full details of responses received to these questions, including demographic data and all response data pertaining to the use and experience of 118 services.*

*(f) Any early guidance provided to Ofcom as to the outcome of such research including, without limitation, preliminary research reports, draft results or other material (including material that is provided as a draft for comment) that will be considered by Ofcom in the DQ review.*

*(g) Any correspondence or notes of meetings between Ofcom and any provider of material falling within the scope of the above, including any comments or feedback on material provided to Ofcom.*

*(h) Any internal assessments of the material falling within the scope of (f) or (g), including papers prepared for internal governance.*

I can confirm that Ofcom has now identified the information that you requested.

Ofcom conducted 'Affordability of communications services research' which was published on 5 December 2016. One question asked:

#### **MULTICODE**

**Q7 (Q18). Which, if any, of the following communications services have you used in the last 12 months?**

1. Payphone
2. Directory enquiries via BT phonebook
3. Directory enquiries via phone
4. Directory enquiries via internet
5. Itemised billing - that you pay extra for
6. None of these

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The research is available at <https://www.ofcom.org.uk/research-and-data/data/statistics/stats16>.

In relation to the other information within scope of your request, please see our responses as follows:

- s.22 – information intended for future publication

Ofcom will shortly be publishing the information requested in points (a), (b) and (d) above as part of our consultation on our 118 Call Cost Review which we expect to publish in Spring 2018. Ofcom does not intend to release the requested information in advance of publication of that consultation. Ofcom considers that advanced release of the requested information would be against the public interest because it may prejudice consideration, by Ofcom and all affected stakeholders, of the issues regarding 118 call costs which are the subject of that review.

Ofcom therefore considers that the information requested falls under the exemption in section 22 of the Act, namely that the information is intended for future publication and it would be against the public interest to release the information at this time. Annex A, which is attached to this letter, sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

- s.22A – information obtained in the course of, or derived from, a programme of research, where the programme is continuing with a view to publication

Ofcom considers that the information requested in points (c), (e), (f) and (h), and some of the information requested in points (b) and (d), falls under the exemption in section 22A of the Act. This is because the information has been obtained in the course of, or is derived from, Ofcom's ongoing programme of research in relation to 118 call costs and Ofcom intends to publish a report of the research as part of the consultation on our 118 Call Cost Review.

Disclosure of the information before the date of publication would, or would be likely to, prejudice Ofcom's interests in considering and consulting on the information for the purposes of our 118 Call Cost Review. It would therefore be against the public interest to release the information at this time. This exemption is set out in full in Annex B, which is also attached to this letter and includes the factors Ofcom considered when deciding where the public interest lay.

- s.36 – prejudice to effective conduct of public affairs

Ofcom considers that some of the information in point (f), and the information in point (h), is also exempt from disclosure pursuant to section 36 of the Act for the reasons set out in Annex C to this letter. In Annex D, Ofcom's Corporation Secretary confirms it is not in the public interest to release this information.

In point (g) you request correspondence or notes of meetings between Ofcom and any provider of material falling within scope of points (a) to (f). This information therefore falls under the exemptions in sections 22, 22A and 36 for the reasons set out above.

If you have any queries, then please contact [information.requests@ofcom.org.uk](mailto: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:

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**

**Section 22: Information intended for future publication**

Section 22 may apply if there is an intention to publish the requested information at some future date. This ensures that the Act does not force public authorities into premature disclosure of information.

Key points:

- Section 22 may apply even if the specific date for publication has not yet been determined but it must be reasonable in all the circumstances that the information should be withheld from disclosure until the future date.
- Section 22 will only apply if the information was already held with a view to such publication when the request was made.
- Section 22 is subject to a public interest balance.

<b>Factors for disclosure</b>	<b>Factors for withholding</b>
<ul style="list-style-type: none"> <li>• Open policy making and public confidence in regulated activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Ofcom intends shortly to publish the requested information as part of its 118 Call Costs Review consultation and expects to do so in Spring 2018.</li> </ul>

**Reasons why public interest favours withholding information**

- Ofcom is currently conducting a review into 118 call costs. It is in the public interest that Ofcom withholds disclosure of the information until its publication as part of Ofcom’s consultation on the 118 Call Costs Review. Premature disclosure may prejudice Ofcom’s ability properly to explain its programme of research to all stakeholders (consumers, industry and others) who are potentially affected by the initial findings of Ofcom’s review and any proposals it may make for consultation, and may prejudice consideration by Ofcom and affected stakeholders of the issues under review.

**Annex B**

**Section 22A: Information obtained from a programme of research intended for future publication**

Section 22A may apply to information obtained in the course of, or derived from, a programme of research which is continuing with a view to publication of a report of the research (whether or not including a statement of that information). This ensures that the Act does not force public authorities into premature disclosure of information.

Key points:

- There is a degree of overlap between section 22 and 22A, but s.22A provides an exemption that is broader in scope in respect of research information.
- Section 22A will only apply if disclosure before the date of publication would, or would be likely to, prejudice one of the matters set out in the section.
- Section 22A is subject to a public interest balance.

<b>Factors for disclosure</b>	<b>Factors for withholding</b>
<ul style="list-style-type: none"> <li>• Open policy making and public confidence in regulated activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Ofcom intends to publish a report of the research as part of its 118 Call Costs Review consultation and expects to do so in Spring 2018.</li> <li>• Disclosure of the information before the date of publication would, or would be likely to, prejudice Ofcom’s interests in considering and consulting on the information for the purposes of the review.</li> </ul>
<b>Reasons why public interest favours withholding information</b>	
<ul style="list-style-type: none"> <li>• It is in the public interest that Ofcom completes its programme of research in relation to 118 call costs, and reviews and analyses the information obtained in the course of that research, before publication. This is particularly the case as a report of the research will be published as part of Ofcom’s consultation on 118 call costs and it will inform any proposals for consultation. Premature disclosure would, or would be likely to, prejudice Ofcom’s ability properly to consider and to present a complete picture of its research, together with any relevant context or explanation. This would in turn prejudice the ability of affected stakeholders to comment on the research findings and any proposals Ofcom may make in the consultation.</li> </ul>	

## Annex C

### 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
- otherwise 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"> <li>• The desirability of citizens being confident that decisions are taken on the basis of the best available information.</li> <li>• Knowledge that the arguments relating to a debate will be disclosable may improve the quality of those arguments.</li> </ul>	<ul style="list-style-type: none"> <li>• Ofcom needs its employees and external sources to provide advice on the conduct and findings of its policy-related research. Disclosure would, or would be likely to, inhibit internal and external advisors from providing that advice freely and frankly which would be to the detriment of the research findings and the policy conclusions Ofcom could draw from them.</li> <li>• To regulate effectively, Ofcom needs to be able to undertake without prejudice rigorous and candid assessments (which includes obtaining the candid views of external advisors on specific matters) and to think through all the implications of particular policy options.</li> </ul>

#### Reasons why public interest favours withholding information

A consequence of disclosure would be that internal and external advisors would be less likely to provide their advice freely and frankly, which would detrimentally affect the quality of advice Ofcom obtained on the evidence base for its policy proposals. Disclosure of internal assessments of research outcomes, including papers prepared for internal governance prior to publication of a consultation, would mean that Ofcom employees would be less likely to discuss openly the evidence base for policy proposals and explore all possible regulatory options. 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.

**Annex D**

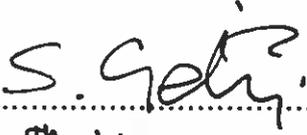
**Section 36: Information likely to prejudice the effective conduct of public affairs**

Some of the information you requested is being withheld as it falls under the exemption in section 36 of the 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, or the free and frank exchange of views for the purposes of deliberation, or otherwise prejudice the effective conduct of public affairs.

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 C 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](mailto:information.requests@ofcom.org.uk).

Signed .....  .....

Date ..... 19<sup>th</sup> March 2018 .....