

Freedom of Information: Right to know request

Thank you for your email. You asked:

“I would like to request the following information about the Bang Media fit and proper test and any other fit and proper test (or the same test under a previous name if applicable) that has been conducted into a licensee (excluding the Sky case in 2012):

- *The date Ofcom confirmed it would be conducting a review*
- *The date Ofcom first mentioned the proposed review in a meeting*
- *The date a team was set up to conduct an investigation*
- *The date a provisional result was produced*
- *The date of the final decision produced*

I would also like to request the minutes from any meetings (or similar documents) that included the discussion of the proposed takeover of Sky by Fox, announced on 09/12/2016.”
Fit and proper in cases other than Sky 2012

In the case of Bang Media, the fit and proper process arose because the licensee had committed an unprecedentedly high number of breaches of the Broadcasting Code over a relatively short period and had continued to breach in spite of sanctions being imposed. In response to your questions:

- *The date Ofcom confirmed it would be conducting a review*

Ofcom did not “confirm it would be conducting a review”. The issues arose because the licensee had committed serious and repeated breaches of the Broadcasting Code.

- *The date Ofcom first mentioned the proposed review in a meeting*

The issues arose because the licensee had committed serious and repeated breaches of the Broadcasting Code. No review was conducted because the case amounted to an aggregation of information from investigations already carried out for the purposes of investigating and sanctioning content breaches. Ofcom’s licensing team dealt with the procedure as a business as usual matter.

- *The date a team was set up to conduct an investigation*

The issues arose because the licensee had committed serious and repeated breaches of the Broadcasting Code. No team was set up to conduct an investigation because the case amounted to an aggregation of information from investigations already carried out for the purposes of investigating and sanctioning content breaches. Ofcom’s licensing team dealt with the procedure as a business as usual matter.

- *The date a provisional result was produced*

13 October 2010

- *The date of the final decision produced*

25 November 2010

As to other licensees, as you may be aware, Ofcom's duty to secure that broadcast licensees are and remain fit and proper to hold broadcast licences applies at the point at which licences are awarded and on an ongoing basis thereafter. It is carried out as a business as usual matter from within Ofcom's licensing team. It is therefore not possible in most cases for Ofcom to identify a beginning or end to a "review" of a licensee's fitness. To the extent that you would wish us to indicate how fitness has been considered in relation to each licensee we have, we would need to review the (paper) files of every Ofcom licensed service. Ofcom has several thousand licensees many of which have been licensed for many years, and we consider that such an exercise would take well in excess of 18 hours. We therefore rely on the exemption in section 12 of the Freedom of Information Act (cost of compliance exceeds the appropriate limit) in relation to it.

Meetings discussing the proposed takeover of Sky by Fox

There are no minutes (or similar documents), within the period of your request, that included substantive discussion of the proposed takeover of Sky by Fox.

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