

Reference: 438840

19 December 2017

Julia Snape
Information requests

information.requests@ofcom.org.uk

Freedom of Information: Right to know request

Thank you for your request for information asking for correspondence between Ofcom, the Home Office and CPS regarding GSM gateways between 20 February and 23 July 2017, which Ofcom has considered under the Freedom of Information Act 2000 (the Act).

You asked for:

All correspondence concerning Gateways between 20 feb and 23 July 2017. The parties involved are Home Office, Ofcom and CPS. I require all meetings and minutes. Notes on all phone calls and all emails.

As you will be aware, Ofcom published a Statement on GSM Gateways on 6 July 2017 available at: https://www.ofcom.org.uk/consultations-and-statements/category-2/commercial-multi-user-gateway-review?utm_source=updates&utm_medium=email&utm_campaign=comugs-statement

I am writing to confirm that Ofcom has now completed its search of relevant documents falling within your request.

For information between Ofcom and the Home Office for the period up to 23 July please refer to a published FOI response via the following link: <https://www.ofcom.org.uk/about-ofcom/foi-dp/foi-responses>. Please see under Spectrum for 2017 with the title: **Correspondence between Ofcom and the Home Office regarding COMUGs.**

We hold information between Ofcom and the CPS but this is exempt from disclosure under S31 of the Act which relates to law enforcement and the functions of a public authority. In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. In the annex I have set out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

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

Section 31: Law Enforcement

Section 31 exempts information if disclosure would or would be likely to prejudice, among other things:

- the prevention or detection of crime
- the administration of justice
- the exercise of functions by a public authority for the purpose of ascertaining whether any person has failed to comply with the law or is responsible for conduct which is improper

Section 31 is subject to a public interest balance.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none"> • Open policy making and public confidence in regulated activities. 	<ul style="list-style-type: none"> • Disclosure would be likely to deter the free and frank exchange of information for the purposes of the proper administration of justice and/or ascertaining whether a person has failed to comply with the law.
Reasons why public interest favours withholding information	
<ul style="list-style-type: none"> • It is not in the public interest to disclose this information as the proper administration of justice requires public authorities to be able to engage in free and frank exchanges of correspondence during the course of any proceedings. • It is important for public authorities to be able to engage freely in exchanging information for the purposes of a prosecution to ensure that a prosecuting authority is not discouraged from proceeding in the way in which it sees fit. 	