

Reference: 1093909

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2 February 2021

## Freedom of Information: Right to know request

Thank you for your request for information about YouTube and TalkRadio.

We received this request on 5 January 2021 and have considered it under the Freedom of Information Act 2000.

### Your request

You asked:

*Please explain what power you have to require YouTube (Google) to restore Talk Radio to its platform.*

*Please state what steps have been taken by Ofcom to seek an explanation from YouTube (Google) on why this step has been taken.*

*Does Ofcom's role include standing up for free speech in the UK?*

### Our response

By way of background, the UK Government introduced legislation in Autumn 2020 giving Ofcom powers to regulate UK-established video-sharing platforms ("VSPs"). These powers came into force on 1 November 2020. Under the new regulations, VSPs, must have measures in place to protect children from potentially harmful content and users from criminal content, and incitement to hatred and violence. VSPs will also need to make sure standards around advertising are met.

Only a handful of VSPs are established in the UK and therefore likely to be within Ofcom's scope of regulation<sup>1</sup>. Services will usually be regulated by the EU member state in which they are based. As YouTube is owned by Google and they are based in Ireland, YouTube falls outside of Ofcom's scope of VSP regulation. However, as you may be aware, the Government has recently confirmed that it will soon bring forward legislation to address the wider question of online harms. This will bring Google, YouTube and other platforms under a new regulatory framework, overseen by Ofcom.

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<sup>1</sup> Please see our draft guidance for consultation on *Video-sharing platforms: who needs to notify to Ofcom?*: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0018/207720/consultation-video-sharing-platforms-who-needs-to-notify.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0018/207720/consultation-video-sharing-platforms-who-needs-to-notify.pdf).

Turning to your request, we do not currently have any powers to require YouTube to restore TalkRadio to its platform and therefore do not hold information on steps taken to seek an explanation from YouTube on why it did so. We understand that YouTube's decision to remove TalkRadio was not made with regard to any regulatory framework, but rather because YouTube considered that TalkRadio had breached its community guidelines. YouTube also acted independently in subsequently deciding to restore TalkRadio to its platform.

In response to your question about free speech, the right to freedom of expression, which is one of the essential foundations of a democratic society, is central to Ofcom's work. This is already at the heart of our work on broadcasting standards and will be central to Ofcom's approach to VSP and online harm regulation. Every time we apply the Broadcasting Code and consider whether TV and radio content causes potential harm, we take careful account of the broadcaster's right to freedom of expression as well as the audience's right to receive information and ideas without unnecessary interference.

I hope this information is helpful. If you have any further queries, then please send them to [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk) quoting the reference number above in any future communications.

Yours sincerely,

Jerin John

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

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 responding to 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 [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk).

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