

Criteria for exception from disclosure of the Information – National Security

Introduction

To address concerns relating to potential release of sensitive information, a process has been developed to gather the necessary evidence from licensed operators on why they consider that the licence information they provide Ofcom should be excepted from disclosure in order to protect national security. This is by way of a pro forma for operators to complete. This information will be shared with Government who will make an assessment as to whether a valid case exists based on the evidence provided and advise Ofcom of its views.

Criteria for exemption (CNI related information)

1. The licensed communication transmissions must relate to a site or other asset which is recognised in Government as **CNI** (cat 3-5).
2. The CNI asset must be critically dependent on the licensed communication transmissions in question, such that:
 - loss or compromise of the transmissions would **critically affect the functioning of the site/operation and the services** it delivers (causing a critical impact on delivery of essential services to the citizen);
or
 - have a **critical impact on public safety** (e.g. leading to casualties/fatalities);
3. The licensed communications transmissions must be **vulnerable to compromise** (i.e. jamming & interference); and
4. That the information provided is **specific to a particular site/transmitter**, requests for entire network exemptions will not be considered.

Additional Factors: A case for exception will be assessed primarily against the above criteria and evidence will need to be provided supporting any claims made in this regard. However, additional secondary factors may be considered and you may want to provide additional supporting evidence¹.

Evaluation process

We request that all pro forma's are completed in full and returned to Paul.Chapman@ofcom.gsi.gov.uk or via post to Paul Chapman, Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA. Once received we will forward this to the Centre for the Protection of National Infrastructure (CPNI) or relevant Government Department who will then co-ordinate the evaluation of the request for exemption and advise Ofcom as to whether valid national security concerns apply. Taking this into account, Ofcom will then make a decision on disclosure.

¹ The Information Commissioner has published guidance for public authorities on dealing with national security exemptions
http://www.ico.gov.uk/upload/documents/library/environmental_info_reg/introductory/eip076_guidance_for_pub_doc_version3.pdf

Exemption of non-CNI information on National Security grounds

There may be legitimate national security concerns of a non-CNI nature. If so, please specify this on the attached pro forma section 10. You should seek to demonstrate that loss or compromise of the licensed communications transmissions would cause a national security impact; that the licensed communications transmissions are vulnerable to compromise (i.e. jamming, interference); and that the information provided is specific to a particular licence or transmitter. Ofcom will consider these non-CNI cases in consultation with the National Security Liaison Group (NSLG) and responsible government department.

Closing date

The closing date for all requests for exemption for Wireless Telegraphy Act licences currently issued is **5pm 12 November 2010**.

NATIONAL SECURITY PRO-FORMA FOR COMPLETION BY OPERATORS**Your Details**

Company Name	Address
Contact name	Telephone / email

Site/ transmission to be considered for exemption

Licence number	
Site location	
Frequency	

Please provide answers to questions below giving specific examples where necessary.

	Do your 'national security' concerns relate to CNI? YES/NO
	<p>If YES, please answer questions 1-9 below.</p> <p>If No, please go straight to question 10.</p>

	The licensed communication transmissions must relate to a site or other asset which is recognised in Government as CNI (cat 3-5)
1.	Please provide details of the CNI site which the licence in question supports and the specific operation/service which the transmitter(s) relates to:
2.	What specific information in relation to the Wireless Telegraphy Act licence are you requesting to be withheld?
3.	Is the information regarding the transmission you wish to exempt from disclosure already in the public domain? [i.e. anywhere on the world wide web (such as local authority websites), journals or other publications]
	The CNI asset must be critically dependent on the licensed communication transmissions in question
4.	What is the impact of loss or interference of the licensed communication transmission? (e.g. nothing, degradation or complete transmission loss)?
5.	What is the impact on the CNI asset that is supported by the licensed communication transmission in the event that it is lost or interfered with?

6.	Is the licensed communication transmission that supports the delivery of critical services resilient? Does it have a back up communication media? If so, what and how does it work?
	The licensed communications transmissions must be vulnerable to compromise (i.e. jamming & interference).
7.	Is the licensed communication transmission encrypted?
8.	What type of transmission is it (e.g. burst or continuous)? How long does the transmission last for? How often does the transmission occur?
9.	<p>Transmitter / Receiver accessibility:</p> <ul style="list-style-type: none"> • Is the transmitted visible and identifiable? • How far is the transmitter / receiver from uncontrolled land? • At what height is the transmitter / receiver? • What are the access control procedures / systems in place to access the transmitter / receiver? • Is the transmitter / receiver protected by physical security (e.g. CCTV, AACS, fences, building fabric or controls, guard force, IDS or PIDS)? • What are the response procedures in the event that the licensed communication transmission is lost or degraded? • Is the licensed communication transmission near to or on top of the CNI defined critical asset?
	Other Potential Factors for consideration
10.	<p>Are there other reasons why this information should not be released on national security grounds?</p> <p><i>[If you believe you have a legitimate non-CNI case you should seek to demonstrate the following:</i></p> <ul style="list-style-type: none"> - <i>that loss or compromise of the licensed communications transmissions would cause a national security impact;</i> - <i>that the licensed communications transmissions are vulnerable to compromise (i.e. jamming, interference);</i> <p><i>Alternatively, if you cannot provide details for protective marking/security reasons, you should contact your lead government department to make representations to Ofcom on your behalf.</i></p>