

Reference: 01538227

Zach Westbrook
Information Rights Advisor
information.requests@ofcom.org.uk

13 December 2022

Freedom of Information request: Right to know request

Thank you for your request for information concerning the small-scale radio multiplex award to MK Digital Media Limited. Your request was received on 17 November 2022 and we have considered it under the Freedom of Information Act 2000 (the 'FOI Act').

Your request

You have asked for information/rationale behind Ofcom's decision of 3 November 2022 to award a new small-scale radio multiplex licence for Milton Keynes to MK Digital Media Limited.

Our response

We confirm that we do hold information you have requested. Copies of the non-confidential parts of the applications received are available on [our website](#). However, we are unable to disclose the confidential parts of the applications, additional documents relating to these applications, or notes on the deliberations of these, as this information falls within section 44 of the FOI Act, which exempts disclosure of information if its disclosure is prohibited by or under another enactment. In particular, Ofcom is prohibited under section 393 of the Communications Act 2003 ('the Communications Act') from disclosing information about a business which we have obtained in the course of exercising our functions in relation to broadcast licensing, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Communications Act is met, neither of which applies here. In this case, the relevant businesses are the applicants for the small-scale radio multiplex licences. Section 44 is an absolute exemption and therefore is not subject to a public interest test. We consider that other exemptions may also apply.

The successful applicant was MK Digital Media Limited, and the unsuccessful application was MK Digital Radio Limited. For reference here is the [award statement](#), which details the reasons for awarding the licence to MK Digital Media Limited. We are unable to provide further information in relation to the considerations made for the unsuccessful applications, for the reasons stated above.

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

Yours sincerely

Zach Westbrook

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

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. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF