

Reference: 01649578

Information Requests
information.requests@ofcom.org.uk

22 November 2023

Freedom of Information request: Right to know request

Thank you for your request concerning data from 2021 for invoices not paid within 30 days. Your request was received on 27 September 2023 and we have considered it under the Freedom of Information Act 2000 (the "FOI Act").

Your request

"please refine my request to include data from 2021 to current and include the following data points:

- * The name of the supplier*
- * The date of the invoice*
- * The gross value of the invoice*
- * The date the invoice should have been paid by*
- * The actual payment date of the invoice"*

Our response

Please find enclosed a spreadsheet containing the gross value of invoices, dates of invoices, payment due dates and actual payment dates.

We are unable to provide the remainder of the information which has been requested, specifically supplier names. We consider that the disclosure of this information is exempt under section 43(2) of the FOI Act. Information is exempt under this provision if its disclosure would, or would be likely to, prejudice the commercial interests of any person including the public authority holding it.

Section 43(2) of the FOI Act is a qualified exemption, which means that we have to consider whether or not the public interest in disclosing the information you have requested outweighs the public interest in withholding the information. In this case, we consider that the public interest favours withholding the information.

The attached Annex A to this letter sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

We also consider that further exemptions may be applicable to some of this information, in particular supplier names where the supplier is an individual, will be exempt from disclosure under section 40(2) of the FOI Act. Section 40(2) of the FOI Act provides that personal information about persons other than the requester is exempt where, among other things, its disclosure would contravene any of the data protection principles in the UK General Data Protection Regulation and the Data Protection Act 2018. This includes the principle that personal data must be processed fairly and lawfully. Section 40 is an absolute exemption under the Act and does not require a public interest test.

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

Information Requests

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

Annex A

Section 43(2) of the FOI Act provides that:

Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Factors for disclosure

- Enabling the public to gain a better understanding of the commercial relationships between Ofcom and its suppliers and the nature of the services provided, and thereby increasing public confidence in Ofcom.
- Generally, there is a public interest in transparency of expenditure especially where public funds are involved.

Factors for withholding

- Ofcom continues to negotiate and require a variety of services and contracts like those related to this request. To release information related to our suppliers, such as business practice or payment information could prejudice the commercial interests of the supplier. Additionally, releasing this information would put Ofcom in a detrimental position for future contract negotiations and would undermine its bargaining position with potential suppliers.
- Ofcom already publishes information on compliance in accordance with Regulation 113(7) of The Public Contract Regulations 2015 each financial year.

Reasons why public interest favours withholding information

- Ofcom continues to negotiate and require a variety contracts and services like those related to this request. To release information relating to business and payment practices of suppliers could prejudice the commercial interests of the supplier.
- The weight attached to the public interest in disclosing is fairly limited, in comparison to the weight attached to avoiding the prejudice which would be caused by disclosure, in view of the limited contribution that the information would make to enabling the public to understand how Ofcom performs its functions in this context. Of particular relevance is the information which Ofcom already publishes in compliance with its obligations under The Public Contract Regulations 2015.