

Reference: 1707504

Information Rights  
Information.requests@ofcom.org.uk

27 November 2023

## Freedom of Information: Right to know request.

Thank you for your request for information about MS3 Networks, East Riding of Yorkshire Council & KCOM.

We received this request on 30 October 2023 and received further clarification on 20 November 2023. We have considered it under the Freedom of Information Act 2000 ("the Act").

### Your request

*Here in East Yorkshire, we have our telephone and broadband delivered by a company known as KCOM. Their infrastructure generally consists of full fibre broadband delivered via underground cables or telegraph poles. They are conducting a programme of improvement to shift the telegraph pole services to underground cables in order that their services can be more reliable.*

*Unfortunately, following the governments change in telecoms legislation, a number of telecoms companies are now inundating this country's cities, towns, villages and countryside with outdated telegraph poles to deliver 'cheaper broadband'. They claim that companies like OpenReach and KCOM are intentionally stalling applications to use their infrastructure and are overcharging to use their infrastructure. In turn, KCOM states that their charges are set by OFCOM and that they have not received any applications to install in Hedon or Preston South, East Yorkshire.*

*As consumers, we don't know who to believe. We are just stuck in the middle, watching our beautiful homes be surrounded by an invasion of poles. In view of the above, I would like you to provide me with the following information under the Freedom of Information Act:*

*Please confirm:*

- 1. How many complaints you have received from consumers in relation to the change in legislation? The legislation I refer to is the following: Product Security and Telecommunications Infrastructure (PSTI) Act 2022*
- 2. How many complaints you have received from telecoms companies in relation to the change in legislation?*
- 3. How many complaints you have received from ERYC about KCOM since 2022?*

4. *How many complaints you have received from ERYC about MS3?*
5. *How many complaints you have received from MS3 Networks about KCOM?*
6. *How many complaints you have received from KCOM about MS3 Networks?*
7. *How many complaints you have received about these issues from MPs? Please identify which MPs.*
8. *What consultation relating to these issues have you held with the Minister for Telecoms (John Whittingdale MP), who stated that he was involved in discussions with OFCOM in August 2023?*

## Our response

We are unable to provide this information as it is not readily accessible and a considerable amount of time would be required to locate, retrieve, identify and extract the information specified in your request, including confirmation of whether we hold any information in respect of the questions. We would need to search and read through all the complaints received in this area to determine if the information held was in scope of your request, before then counting said complaints to give the numbers requested.

Section 12 of the Act provides that we are not obliged to comply with a request for information if we estimate that the cost of complying with the request would exceed the “appropriate limit”. The appropriate limit is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the “Regulations”), and is, for Ofcom, £450. That sum is intended to cover the estimated costs involved in determining whether Ofcom holds the information requested, locating, retrieving and extracting the information from any document containing it. The Regulations provide that costs are to be estimated at a rate of £25 per person per hour, which equates to 18 hours of time. We estimate that it would take us more than 18 hours to locate, retrieve, identify and extract the information specified.

You may wish to consider submitting a narrower, more focused request and we would be happy to consider this under the FOI Act. Should you decide to make a further request for information, please note that other exemptions may apply such as section 44. (for further information on the exemptions under the FOI Act, see the Information Commissioner's Office's website e.g. here: [When can we refuse a request for information? | ICO](#)).

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,

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](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. 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