

Reference: 1665856

Information Rights  
Information.requests@ofcom.org.uk

28 September 2023

## Freedom of Information: Right to know request.

Thank you for your request for information about Ofcom's Microsoft licensing.

We received this request on 31 August 2023 and have considered it under the Freedom of Information Act 2000 ("the Act").

### Your request and our response

*'1. Is Ofcom currently using Microsoft Office M365/O365 subscriptions to licence its desktops?*  
Yes.

*2. If the answer to question 1 is yes, can you confirm the date Ofcom initially migrated to Microsoft Office M365/O365?*  
2015.

*3. If the answer to question 1 is yes, can you confirm what version(s) and quantities of perpetual (owned outright) desktop application licences (such as Microsoft Office) you were previously using to licence your desktops?*  
OfficeProPlus 1,033 licences.

*4. Did Ofcom use the 'FromSA' product SKU when it initially migrated to M365/O365 to obtain the discounts available from Microsoft?*  
Yes.

*5. Could you now please supply me with a copy of Ofcom's most recent Microsoft Licensing Statement (MLS). I am not requesting this information to generate business opportunities. We are not looking to buy, or sell software licences, we are interested to see how Ofcom has been licenced/dates of contracts etc, over the years. Could you also confirm who Ofcom's licensing partner/reseller is?*

Ofcom took part in the Crown Commercial Services Microsoft Licencing Summer 2023 Aggregation Tender. Phoenix Software Limited were selected as the Microsoft Partner.

The information you requested is being withheld as we consider that its disclosure is exempt under section 43(2) of the Act. This exemption deals with information that, if disclosed, would, or would be likely to, prejudice the commercial interests of any person including the public authority holding it. In applying this exemption, we have had to balance the public interest in withholding the information against the public interest in disclosing the information. Annex A, attached to this letter, sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

*6. Unless you already have the latest MLS, could you reach out to your IT reseller and obtain it. Your reseller will have access to this. Your reseller is legally obliged to provide you with this as this would be required for basic audit requirements. If you could forward a copy of the complete MLS I can then review it. There is nothing on an MLS that could cause any harm to any organisation. We have reviewed many MLS's from councils/public authorities over the years and continue to receive them on a daily basis.'*

Please see our response at question 5.

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,

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

Annex A

<p><b>Section 43(2) of the Act which states:</b></p> <p><i>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).</i></p>	
<p><b>Factors for disclosure</b></p> <ul style="list-style-type: none"> <li>• Enabling the public to gain a better understanding of the commercial relationships between Ofcom and its suppliers, thereby increasing public confidence in Ofcom’s work and promoting transparency.</li> </ul>	<p><b>Factors for withholding</b></p> <ul style="list-style-type: none"> <li>• Ofcom contracts with a number of companies and has a financial relationship with them. Companies need to be confident that information relating to their business, such as information about them as an organisation or relating to their products or services, will not be disclosed if it would, or would be likely to, prejudice their commercial interests.</li> <li>• Ofcom continues to negotiate and require contracts like those related to this request. To release specifics about contracts would likely put Ofcom in a detrimental position for future contract negotiations and would likely undermine its bargaining position with potential suppliers. In addition, it would also likely prejudice the commercial interests of the supplier – in that it would provide details of the supplier’s commercial relationships to its competitors or potential contractors.</li> </ul>
<p><b>Reasons why public interest favours withholding information</b></p> <ul style="list-style-type: none"> <li>• We consider that, on balance, the public interest in withholding disclosure of this information outweighs the public interest in disclosure.</li> <li>• Ofcom enjoys a positive relationship with those companies it contracts with. The release of information which would, or would be likely to, prejudice commercial interests into the public domain would impair both Ofcom’s relationship with providers of services, and adversely affect its commercial relationships with other contractors. If contractors could not be confident that such information provided</li> </ul>	

by them to Ofcom would be withheld from disclosure, except in compelling circumstances, commercial activity may be impeded. Similarly, Ofcom's bargaining position, and therefore ability to obtain value for money in services it contracts for, may be undermined in future negotiations if full details about the commercial arrangements were disclosed. We consider that these considerations go against the public interest in disclosing.

- Weighing the issues presented, it is considered that on balance, the factors for withholding the requested information outweigh those for disclosing the information.