

Reference: 1850872

Information Requests
information.requests@ofcom.org.uk

7 August 2024

Freedom of Information request: Right to know request

Thank you for your request for information about Enforcement of the Communications Act 2003 and the Electronic Communications Code (Conditions and Restrictions) Regulations 2003.

We received this request on 11 July 2024 and we have considered your request under the Freedom of Information Act 2000 (“the FOI Act”).

Your request

I am writing to you under the Freedom of Information Act 2000 to request the following information. Please can you provide me with:

- 1. All written correspondence and verbal requests and communications received (including notes of meetings and electronic communications), and all written and verbal responses given by Ofcom in relation to requests made between 1st April 2013 and 11th July 2024 under the Communications Act 2003, Part 2, Chapter 1, section 119 entitled “power to give assistance in relation to certain proceedings”.*
- 2. All written correspondence and verbal requests and communications received (including notes of meetings and electronic communications), and all written and verbal responses given by Ofcom in relation to requests made between 1st January 2022 and 11th July 2024 to take action against BRSK Ltd (of 85, Great Portland Street, London W1W 7LT) under the Electronic Communications Code (Conditions and Restrictions) Regulations 2003 and under any part of the Communications Act 2003. If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under the Section 16 obligations of the Act, as to how I can refine my request.*

Our response

It would require a considerable amount of time to respond to your request. This is because we would need to manually locate, retrieve, identify and extract documents and correspondence, which include MP’s letters, queries from the public, meeting minutes and emails, and read these in order to identify if the information held was in scope of your request.

Section 12 of the FOI 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 all the information specified.

You can narrow the timeframe of your request, however, please note, any information relating to BRSK that Ofcom has obtained from BRSK or any other person while carrying out its functions would be exempt from disclosure under Section 44 of the FOI Act and we would not be able to disclose it to you. Section 44 of the FOI Act exempts the disclosure of information which is prohibited by another enactment. In this case, we are prohibited under section 393 of the Communications Act 2003 from disclosing information which relates to a business (such as BRSK), which we have obtained in exercising our powers, unless we have the consent of that business or one of the statutory gateways for disclosure under section 393(2) is met, neither of which applies here. 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 – quoting the reference number above in any future communications.

Yours sincerely,

Information Requests

Request an internal review

If you are unhappy with the response you have received to your request for information, or think that your request was refused without a reason valid under the law, you may ask for an internal review. If you do, it will be subject to an independent review within Ofcom. We will either uphold the original decision, or reverse or modify it.

If you would like to ask us to carry out an internal review, you should get in touch within two months of the date of this letter. There is no statutory deadline for us to complete our internal review, and the time it takes will depend on the complexity of the request. But we will try to complete the review within 20 working days (or no more than 40 working days in exceptional cases) and keep you informed of our progress. Please email the Information Requests team (information.requests@ofcom.org.uk) to request an internal review.

Taking it further

If you are unhappy with the outcome of our internal review, then you have the right to [complain to the Information Commissioner's Office](#).