



**Sky's response to Consultation:
Ofcom's general policy on information
gathering**

September 2024

1. Introduction

In its Consultation on Ofcom’s general policy on information gathering (“Consultation”), Ofcom proposes to update and clarify the general policy to reflect its experience of issuing statutory information notices in practice¹, and to ensure that the manner in which it exercises its powers in respect of statutory information notices remains fit for purpose and minimises the burden placed on stakeholders.²

We welcome the opportunity to put forward our experience as recipients of statutory information notices and informal information requests and to address the gaps and challenges that exist in the process, which we have consistently raised, both individually and along with members of UKCTA.

Ofcom states that it has had regard to the issues raised by stakeholders in response to the 2015 consultation and which they continue to raise, in particular the burden placed on stakeholders.³ However, the draft Policy does not reflect this and, in particular, lacks specifics on the role of the Information Registry (“Registry”) and how it will address the burdens that have been reported to Ofcom.

2. The role of the Information Registry

We note that the purpose of the Registry is to “manage and reduce the burden on stakeholders by providing a central contact point for stakeholders, streamlining our activities and ensuring better oversight and coordination of our information gathering” and that Ofcom has “received positive feedback on the Registry’s ability to improve the information gathering process, including ensuring that stakeholders have a clearer view of upcoming requests and managing response deadlines for stakeholders to minimise overlapping requests”.⁴

While we acknowledge that there has been a degree of centralisation, the Registry should play a much more significant role in managing the burden on operators, in line with assurances given when it was created in May 2020. We would like to see the Registry operate less as a mere conduit for requests, and for it to be empowered and supported at senior levels to take a strategic and proactive role in addressing and managing the burdens created by numerous uncoordinated information requests arising from multiple departments and project teams.

We note that the Registry is intended to work with stakeholders “in a constructive and cooperative way to give advance sight of upcoming requests and manage timeframes for response in a coordinated way... and to ensure efficiency and to minimise the regulatory burden placed on stakeholders to the extent possible” by recording and having oversight of the number of statutory information notices which have been sent to a recipient at any one time, and that this is intended to help ensure Ofcom sets reasonable deadlines for responses.⁵

The draft policy provides for the Registry to work constructively and cooperatively and stay “up to date with information gathering activities to identify peaks and

¹ Page 3 of Consultation

² Para 2.14 of Consultation

³ Para 3.12 of Consultation

⁴ Para 3.13 of Consultation

⁵ Para A1.21 of draft Policy

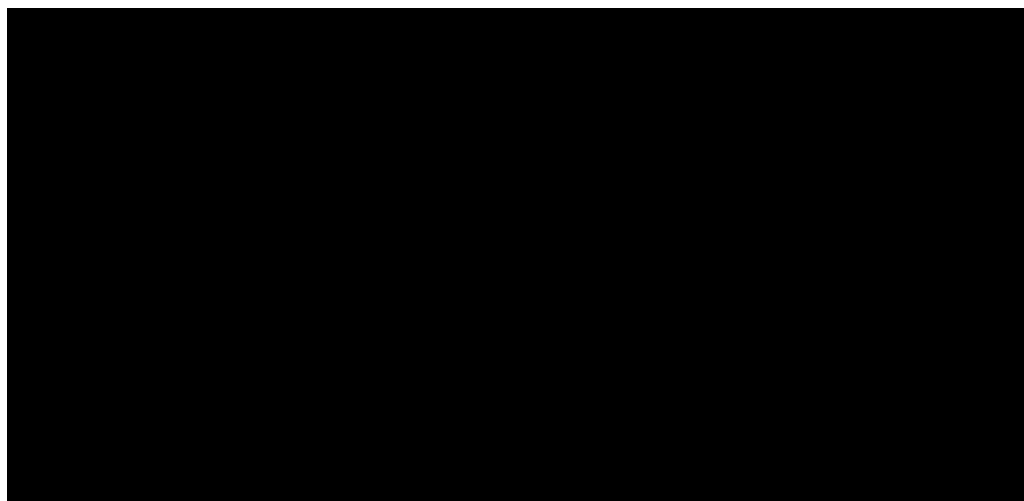
manage them effectively where it is possible to so”⁶ and, where necessary, “meet regularly with external stakeholders to provide visibility of the timing of upcoming statutory information notices”.⁷

We consider that the Registry’s role should be much broader than merely recording and having oversight of the number of requests that are sent. When it was formed, the vision for the Registry was that it would work with Ofcom’s Policy teams to map and plan upcoming projects to ensure that information requests are staggered across the year and not for example, being issued over holidays periods as happened this year, when some providers were dealing with 18 information requests simultaneously over the summer break.

3. The true burden of information requests

In our experience, individual Ofcom project teams continue to issue requests independently in parallel with those issued via the Registry. This means that despite regular meetings with the Registry, operators receive information requests from those project teams without forewarning, and usually at times when they are already responding to several other planned requests, often with overlapping requirements or requiring input from or review by the same operational teams. This is not in line with Ofcom’s obligations to ensure its “regulatory activities are transparent, accountable, proportionate, consistent, and targeted only at cases in which action is needed”⁸. It also leads to substantial and unsustainable burdens on operators to ensure that responses are complete, accurate and submitted within the stipulated deadline.

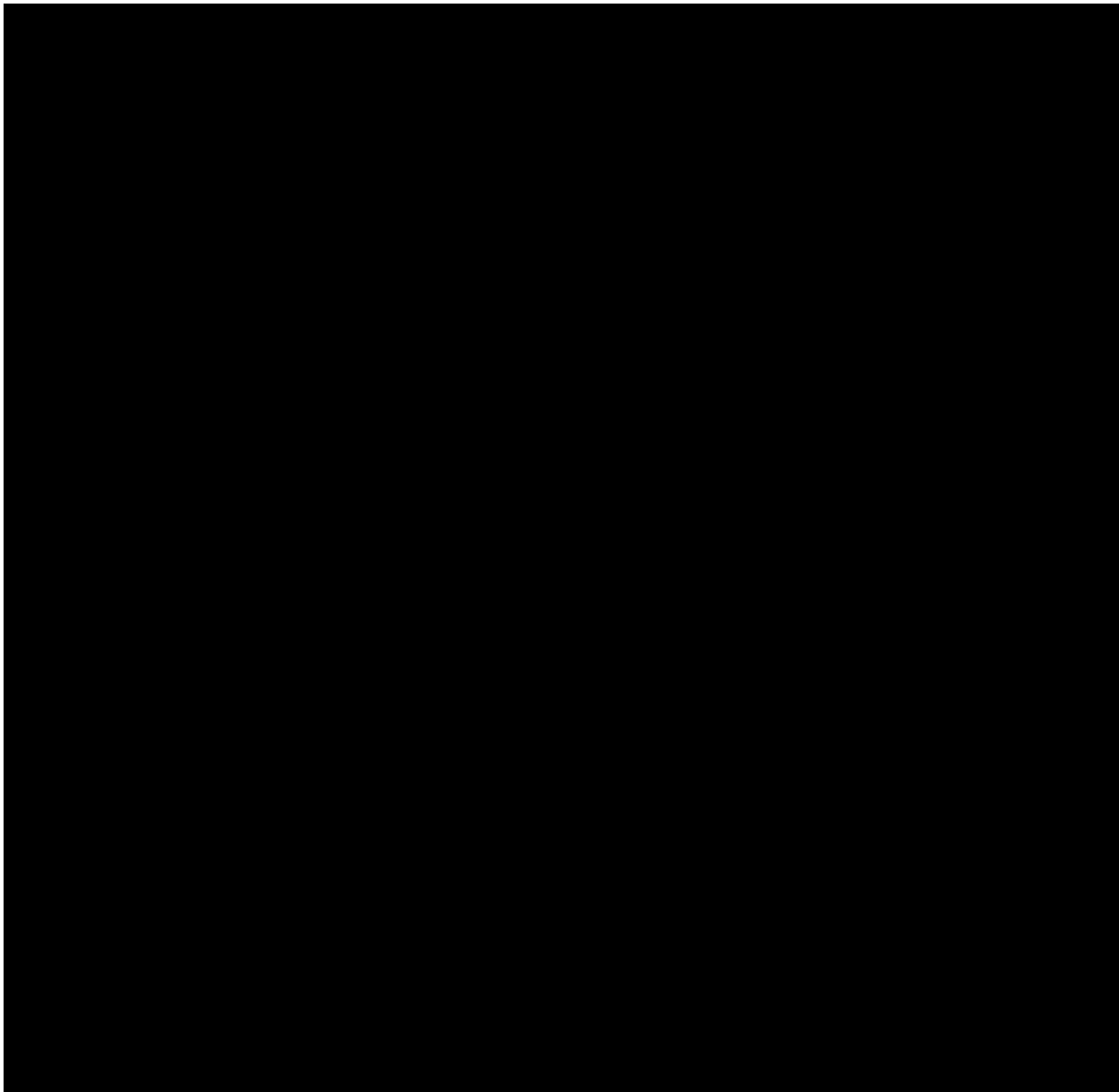
Ofcom has provided us with the below graphic reflecting live and planned requests from August to November 2024 (see Annex 1 for a larger version). This is not a true reflection of the volume of requests made of Sky, nor the extent of obligations arising from them. We are required to respond to at least ████ regular formal information requests during 2024. Beneath Ofcom’s chart is one prepared by Sky for 2024 (see Annex 2 for a larger version), indicating these regular requests, along with one-off requests, follow ups, draft requests, and informal requests, all of which require resource to address.



⁶ Para A1.21; A1.25 of draft Policy

⁷ Para A1.26 of draft Policy

⁸ Para A1.12 of draft Policy



We engage regularly with the Registry on the volume and timing of information requests but, despite this, we have seen a dramatic increase in the number of information requests issued. For example, by mid-2024, we had received [REDACTED] requests from Ofcom. By contrast we received [REDACTED] requests during the whole of 2022, and [REDACTED] during 2023.

In all three years, a substantial number had deadlines over holiday periods where staff absences due to holidays present challenges in coordinating responses, collating the relevant data, and obtaining appropriate sign off.

We are conscious of the serious sanctions that Ofcom refers to in the Consultation⁹ and the increase in enforcement action where responses are inaccurate or delayed. We take our obligations in respect of information requests seriously and work hard to ensure that our responses are complete, accurate, adequately validated and

⁹ Para 2.8 and Annex A3 of Consultation

submitted on time. This is becoming increasingly difficult to achieve given the increase in concurrent requests with unrealistic timeframes.

We are concerned that, despite repeated requests for a strategic approach to information gathering, with better co-ordination of requests with staggered timings, providers continue to face multiple, overlapping requests.

4. These challenges can be addressed

We would welcome a more strategic and aligned approach to information requests, where project teams work more closely with the Registry, under the direction of senior Ofcom leadership. This would ensure that all parties within Ofcom are aware of the information request landscape and are able to stagger information requests and timings more appropriately, and to ensure Ofcom exercises its powers reasonably and proportionately. It would be beneficial for the Registry to have a better overview of the content and purpose of information requests, and of information that has been submitted. The ability to identify potential duplication and address it before requests are sent out could alleviate some of the regulatory burden on operators.

It would be useful for there to be prescribed processes on how Ofcom staff should approach information requests, which go beyond when they are issued. Staff should consider whether the volume of information requested is proportionate to the effort required to produce it, whether the information requested is relevant to the questions asked, how information requested is going to be used, and when staff intend to engage with the information, so as to avoid creating false urgency and unwarranted pressure on operators.

We propose that the draft Policy provide for regular and routine reporting, via a method of requesting periodic data sets, where parameters and key definitions are agreed with operators up front, and each request can be re-run periodically - for example, every quarter. This is in line with Ofcom's intention to "draw from existing information sources to avoid unnecessary duplication of effort and to minimise" burdens on operators,¹⁰ and could be aligned to Ofcom's published priorities in order to assist in achieving its Annual Plan of Work.

This would also remove the need for some of the more ad hoc and disruptive requests, allowing operators to plan and resource appropriately, and provide Ofcom with more comparative data sets which would assist in monitoring market trends more consistently.

Sky

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¹⁰ Para A1.11 of draft Policy



Annex 1

