

Freedom of Information Internal Review decision

Internal Reviewer	Legal Workplace and Information Rights
Reference	RFI20200728 / IR2020024
Date	13 July 2020

Requested information

On 10 June 2020, you wrote to the BBC requesting the following information:

“Thank you for responding to my request for information. Your letter dated 10 June 2020 is attached hereto. I note that my request is excluded, pursuant to Part VI of Schedule 1 of the F O I A, with no provision for internal review.

Accordingly, I would be grateful if you could arrange to process a separate request as set out below that is considered to fall outside the criteria set out in Part VI of Schedule 1. I would be grateful if you could provide the following information at your earliest convenience.

The total funding provided by the "Bill & Melinda Gates Foundation [B M G F]" to your subsidiary company "BBC Media Action" itemised as under:

- Total funding provided by B M G F in 2018 / 19 financial year, and*
- Total funding provided by B M G F in 2019 / 20 financial year*

If you require further clarification you are welcome to contact me at any time. I accept that this can now be processed as a separate request for information. Thank you.”

On 16 June 2020 the BBC responded to your request, stating:

“As set out in section 6(1)(b)(ii) of the Act, our subsidiaries (including BBC Studioworks Limited, UKTV, BBC Global News Ltd and BBC Studios Ltd), as well as the charities BBC Media Action and BBC Children in Need, are not subject to the Act. Therefore information regarding their activities is also not subject to the Act.

For more information on BBC Media Action please follow this link to their website:

[https://www.bbc.co.uk/mediaaction/.](https://www.bbc.co.uk/mediaaction/)”

Request for Review

“In accordance with your established protocol I would be grateful if you could arrange to undertake an "internal review" of the decision to withhold the information requested. I remain of the view that disclosure is in the wider public interest. Justification for the review is set out below.

1. Your reference to section 6 [1] [b] [ii] of the F O I Act appears to conflict with the relevant abstract of the Act downloaded today, as attached.
2. Your subsidiary company "BBC Media Action" has a close working relationship with BBC News. I have reason to believe that your subsidiary company has received funding of over £56 million from the "Bill and Melinda Gates Foundation" who are therefore in a position to influence news coverage regarding the current Covid-19 crisis through the funding provided. I look forward to the outcome of your internal review at your earliest convenience or, alternatively, confirmation that the matter may be referred to the Information Commissioner for external assessment. In your further response can you also please provide me with the contact details of the external regulator that oversees the work of the BBC. Thank you."

Decision

In light of the request for the internal review, I reviewed the original freedom of information request, Information Commissioners (ICO) Guidance and I have considered the BBC's approach. I agree with the BBC's conclusion that the information requested is not subject to the FOIA. I therefore uphold the BBC's application of section 6(1)(b)(ii) to withhold the requested information and uphold the BBC's decision that the information is held by BBC Media Action and is therefore not subject to the FOIA.

Reasons for decision

"Section 3 FOIA;

"Public authority" means

- (a) ... any body which, any other person who, or the holder of any office which
(i) is listed in Schedule 1 ...
(b) a publicly-owned company as defined by section 6."

In order for an organisation such as BBC Media Action to be subject to the Act all parts of Section 6(1)(b)(ii) must be satisfied.

The ICO carried out the test¹ under Section 6(1)(b)(ii) in order to establish if an organisation like BBC Studios (in this case into BBC Worldwide Ltd) is publicly owned and as a result subject to the Act. Applying the same test it to BBC Media Action it is clear that:

- **a company... wholly owned**
The BBC has acknowledged that BBC Media Action is wholly owned by it.²
- **by any public authority listed in Schedule 1**
The BBC is listed in Schedule 1
- **Other than any authority which is listed only in relation to particular information**

¹ See: https://ico.org.uk/media/action-weve-taken/decision-notice/2007/400554/DECISION_NOTICE_FS50082246.pdf

² See: <https://beta.companieshouse.gov.uk/company/03521587/persons-with-significant-control>

The BBC is listed ‘in respect of information held for purposes other than those of journalism, art or literature’.

Under Schedule 1 Part VI the BBC is listed as being subject to the Act only for the purposes other than journalism, art and literature. In result the BBC is listed only in relation to particular information.

In addition ICO Guidance states the following:

“The BBC is listed in Schedule 1 of the FOIA as a public authority “in respect of information held for purposes other than those of journalism, art or literature.” This means that any company that is partly owned by the BBC is not a public authority for FOIA”³.

The Commissioner concluded in [FS50082246](#) that wholly owned subsidiaries of the public authority are not subject to the provisions of the Act as the public authority (the BBC) is listed only in relation to particular information (i.e. in respect of information held for purposes other than those of journalism, art or literature). BBC Media Action is not, therefore subject to the provisions of the Act and recorded information held by it cannot be accessed via the Act.

Appeal Rights

If you are not satisfied with the outcome of your internal review, you can appeal to the Information Commissioner. The contact details are: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF; Telephone 01625 545 700 or <https://ico.org.uk/>

³ https://ico.org.uk/media/for-organisations/documents/1152/public_authorities_under_the_foia.pdf - paragraph 15