

Criteria for exception from disclosure of the Information – Defence

Introduction

To address concerns relating to potential release of sensitive information, a process has been developed to gather the necessary evidence from licensed operators on why they consider that their information should be excepted from disclosure in order to protect defence. This is by way of a pro forma for operators to complete. This information will be shared with Government who may make an assessment as to whether a valid case exists based on the evidence provided and advise Ofcom of its views.

Criteria for exemption

1. Disclosure of information regarding the asset would or would be likely to prejudice:
 - the defence of the British Islands (i.e. the UK, Channel Islands and the Isle of Man) or any colony;
 - the capability, effectiveness or security of the armed forces or that of any forces cooperating with them
2. The information concerning the asset is not available from any other sources.
3. That the information provided is specific to a particular site/transmitter, requests for entire network exemptions will not be considered.

Additional Factors: A case for exception will be assessed primarily on the evidence set out against the above criteria. However, additional secondary factors may be considered and you may want to provide additional supporting evidence¹.

Evaluation process

We request that all pro forma's are completed in full and returned to Paul.Chapman@ofcom.gsi.gov.uk or via post to Paul Chapman, Ofcom at Riverside House, 2a Southwark Bridge Road, London SE1 9HA. Once received we will evaluate the request and if necessary forward it to Government for advice. Taking this into account, Ofcom will make a decision on disclosure.

Closing date

The closing date for all requests for exemption for Wireless Telegraphy Act licences currently issued is **5pm 12 November 2010**.

¹ The Information Commissioner has published guidance for public authorities on dealing with defence exemptions
http://www.ico.gov.uk/upload/documents/library/environmental_info_reg/introductory/eip076_guidance_for_pub_doc_version3.pdf

DEFENCE PRO-FORMA FOR COMPLETION BY OPERATORS

Your Details

Company Name	Address
Contact name	Telephone / email

Licence/ transmission site to be considered for exemption

Licence number	
Site location	
Frequency	

Please provide answers to questions 1-7 below giving specific examples where necessary.

	The licensed communication transmissions must relate to a site or other asset whose disclosure would or would be likely to prejudice defence matters.
1.	Please provide details of the site which you are seeking to exempt and of the specific operation/service which the transmitter(s) relates to:
2.	What specific information in relation to the Wireless Telegraphy Act licence are you requesting to be withheld?
3.	What would be the direct impact on defence if this information was made available?
4.	What evidence do you have to support this claim?
	The licensed communications asset must be vulnerable to compromise.
5.	Transmitter / Receiver accessibility: <ul style="list-style-type: none"> • Is the transmitted visible and identifiable? • How far is the transmitter / receiver from uncontrolled land? • At what height is the transmitter / receiver? • What are the access control procedures / systems in place to access the

	<p>transmitter / receiver?</p> <ul style="list-style-type: none"> • Is the transmitter / receiver protected by physical security (e.g. CCTV, AACS, fences, building fabric or controls, guard force, IDS or PIDS)? • Is the licensed communication transmission near to or on top a CNI defined critical asset?
6.	Is information on the asset available already via other means (e.g. local council planning authorities)?
Other Potential Factors for consideration	
7	<p>Are there other reasons why this information should not be released on defence grounds?</p> <p><i>[If you believe you have a legitimate case you should seek to demonstrate the following:</i></p> <ul style="list-style-type: none"> - <i>that disclosure might assist an enemy</i> - <i>that the information on the licensed communications transmissions or other information is not in the public domain;</i> <p><i>Alternatively, if you cannot provide details for protective marking/security reasons, you should contact your lead government department to make representations to Ofcom on your behalf.</i></p>