

Our Reference: 1- [REDACTED]

24 February 2009

[REDACTED]

Dear M [REDACTED]

Freedom of Information: Right to know request

Thank you for your letter to Ofcom regarding 'Phorm', which was received on 29 January 2009 and has been considered under the Freedom of Information Act 2000, (the Act).

I would like to advise you that we cannot inform you whether we hold the information you have requested under questions 1,2,3,7&8 as to do so falls under the exemption in section 44 of the Freedom of Information Act. Informing you whether we hold such information is prohibited under section 393(1) of the Communications Act 2003]. Section 44 is an absolute exemption under the Act and does not require a public interest test.

It is likely that other exemptions will apply.

Your remaining questions have been answered below:

4. When were Ofcom made aware of the trials of Phorm/121 Media systems in 2006/2007?

Ofcom became aware of the trials as a result of coverage in the media, from sources such as The Register, where the trials were first reported in February 2008 (<http://www.theregister.co.uk>).

5. What evidence has Ofcom sought from BT concerning the secret trials in 2006/2007?

Ofcom has not sought any evidence from BT concerning these trials, as the issues raised are outside Ofcom's regulatory remit, falling to the ICO and the police.

6. When was Ofcom's CEO first advised that covert trials of Phorm/121 Media systems had been conducted in 2006/2007?

Ofcom's CEO was informed of the trials following media coverage.

If you need any further assistance please contacting me quoting the above reference number.

You should ensure that when using the provided information in any way, including publishing the information, you comply with all relevant legislation. For example, the information provided may be protected by copyright under the Copyright, Designs and Patents Act 1988 (as amended). If in doubt, please seek independent legal advice. For Ofcom's policy on

copyright and related issues, please refer to our website at
<http://www.ofcom.org.uk/about/accoun/disclaimer/>.

Yours sincerely



Katy Emadi

Information Associate

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

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 undertaking internal reviews and it will depend upon the complexity of the case, but we aim to conclude all internal reviews within 2 months. If you wish to request an internal review, you should contact:

Graham Howell
The Secretary to the Corporation
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA

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. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Windsor
Cheshire
SK9 5AF