

Date: 21 March 2025

IC-368862-N0V3

Request

You asked us:

"a 2013 non-disclosure agreement between the ICO and the UK mobile network operators ("MNOs"), disclosed [...] under reference IC-350791-Q2H3, refers in turn to a memorandum of understanding between the ICO, the GSMA and the MNOs (with the exception of "Three").

Please could you disclose this MOU?"

We received your request on 11 March 2025. We have handled your request under the Freedom of Information Act 2000 (the FOIA).

Our response

I can confirm that we hold information in scope of your request. It is attached.

There are some redactions to this document, which includes:

- Redaction of personal data (including names, job titles, email addresses, and signatures) of all signatories. This includes ICO signatories who are no longer with the organisation. I rely on section 40(2) FOIA for these redactions.
- Redaction of one email address which was not personal data. I rely on section 44 FOIA for this redaction.

Further information about these exemption have been detailed below.

Additionally, due to the size of some of the signatories' signatures, some non-exempt information has had to be redacted out of necessity. The non-exempt information is detailed below:

- On page 11, underneath "Information Commissioner's Office", the words "Authorised Signature" have been redacted but are not otherwise exempt.
- On page 12, in the third box down on the right hand column of the table, the words "Telefonica UK Limited t/a O2", followed by "Authorised Signature", and finally followed by "Name and Title" have been redacted but are not otherwise exempt.

No other information has been redacted without being accounted for.

Finally, although this information hasn't been specifically requested, I would like to add that the MoU I have attached is the MoU referred to in the NDA disclosed under IC-350791-Q2H3. However, this MoU is no longer in use and has not been replaced by another MoU at this time.

Information withheld: FOIA Section 44 and DPA section 132

Some information has been withheld under section 44 of the FOIA. Section 44(1)(a) states:

"(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it -

(a) is prohibited by or under any enactment"

The enactment in question is the Data Protection Act 2018. Section 132(1) of part 5 of that Act states that:

"A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—

(a) has been obtained by, or provided to, the Commissioner in the course of, or for the purposes of, the discharging of the Commissioner's functions,

(b) relates to an identified or identifiable individual or business, and

(c) is not available to the public from other sources at the time of the disclosure and has not previously been available to the public from other sources,

unless the disclosure is made with lawful authority."

In the present case, the Annex at the end of the MoU is marked as having a restricted circulation. The sensitive information on here is the contact information for the organisations who are signatories to the MoU. Most of the contact information is personal data because the emails contain the name of an individual. However, there is one email which cannot be exempted as personal data.

This email has been provided to us as a contact point for a signatory of the MoU. The purpose of the MoU is to support our work under PECR and the DPA. Therefore, I consider the contact details under the MoU were provided to us for the purposes of us discharging our functions. Further, it relates to an identifiable business. Finally, I am not aware that it is available to the public from other sources at the time of this disclosure.

While I cannot categorically rule out that it is not available *somewhere* or has not been previously made available to the public, given the potentially criminal nature of an improper disclosure contrary to section 132 of the DPA 2018, I would much rather err on the side of caution and assume that it has not given that it was provided to us in an otherwise confidential annex.

While there are lawful gateways to disclosure, specifically consent, I have not consulted on this occasion to provide a speedier response and taking into account the fact that the most important details of the MoU are the wording of the agreement itself. As I have not consulted, I do not have consent and I find that there is not a lawful gateway to disclose the email address. It is therefore exempt from disclosure.

This concludes our response to your request.

Next steps

You can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days.

You can read a copy of our full [review procedure](#) on our website.

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority.

You can [raise a complaint](#) through our website.

Your information

Our [privacy notice](#) explains what we do with the personal data you provide to us, and sets out [your rights](#). Our [Retention and Disposal Policy](#) details how long we keep information.

Yours sincerely



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