

Explanation of Exemptions Applied

Section 31

Section 31 ('Law enforcement') provides that information held by a public authority is exempt if its disclosure would, or would be likely to, prejudice the exercise of a public authority of its functions including "the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise" (s.31(2)(c)).

Section 31 is a qualified exemption so we are required to consider whether maintaining the exemption is in the public interest.

In favour of disclosure

- There is a legitimate public interest in promoting the accountability and transparency of public authorities.
- Increased transparency by operators would promote consumer confidence and help them make informed choices.
- Releasing the information may provide assurance to customers regarding corporate responsibility.

In favour of maintaining the exemption

- Disclosing detailed information is likely to impact on the openness of operators which will in turn impact on the ability of the Commission to effectively regulate.
- Operators already publish information regarding their corporate governance.
- It would be disproportionate to disclose such detailed information regarding commercial companies and this would set a precedent for future investigations.
- There is a clear public interest in not disclosing AML controls / lessons learned which would potentially facilitate criminal activity.

Section 43

Section 43 of the Act (commercially sensitive information) provides that information is exempt information if: its disclosure under the Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

Section 43 is a qualified exemption so we are required to consider whether maintaining the exemption is in the public interest.

Factors in favour of disclosure

- There is a legitimate public interest in promoting the transparency of the Commission and in making information available to the public.
- Providing operational information on social responsibility controls (such as self exclusion) could allow the public to gauge how effectively the operator implements these and encourage consumer confidence in the operator.

Factors in favour of maintaining the exemption

- Disclosing the information could discourage licensees from freely providing information to the Commission in future, which would prejudice the Commission's ability to monitor and regulate its licensees.

- The release of detailed financial and operational information regarding operators would put them at a commercial disadvantage to their competitors. There is no public interest served by unjustified damage to commercial companies.

Weighing the balance

Whilst we recognise that there is a public interest in being open and transparent in order to promote accountability of the Commission. There is an overwhelming importance that operators continue to share such detailed information with us in order for us to continually raise standards and support consumers. Disclosure of this information would be of detriment to that work; on this basis the Commission is minded to maintain these exemptions.