Hi,

Under the FOI Act, I would like access to:

- All correspondence sent and received by Minister Alex White since his appointment concerning the broadcasting charge.

- Any briefing documents prepared for ministers Rabbitte and White concerning the broadcasting charge.

- The minutes of all meetings in the last nine months at which the implementation of the broadcasting charge was discussed.

- Any correspondence sent and received by Minister Alex White concerning the plan to allow An Post access customer databases of Sky, UPC and Eircom.

I would like this information in electronic format if possible, preferably by email.
FOI Request Reference: FOI/2015/38

I refer to your request which was received by this office on 23/04/2015 which you have made under the Freedom of Information Act 2014 for records held by this FOI body. Your request sought:

- All correspondence sent and received by Minister Alex White since his appointment concerning the broadcasting charge.
- Any briefing documents prepared for Ministers Rabbitte and White concerning the broadcasting charge.
- The Minutes of all meetings in the last nine months at which the implementation of the broadcasting charge was discussed.
- Any correspondence sent and received by Minister Alex White concerning the plan to allow An Post access customer database of Sky, UPC and Eircom.

The decision maker handling your request is Ms Maria Owens, Broadcasting Policy Division, Department of Communications, Energy and Natural Resources, 29-31 Adelaide Road, Dublin 2 and they can be contacted at 01 6783097. A final decision on your request would normally be sent to you within 4 weeks, where a week is defined as 5 working days excluding the weekend and public holidays. This means that you can expect a decision letter to issue not later than 22/05/2015.

There are some limited situations under the FOI Act which could mean that the period for a final decision may be longer than this 4 week period. If this occurs in the case of your request, you will be advised promptly in writing setting out the reason and the new decision date.

Should our final decision not reach you on time, please feel free to contact the decision maker named above to discuss any problems that may have arisen. If you have not heard from us once the allotted time has expired, you are automatically entitled to appeal for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired. The review is a full and new examination of the matter carried out by a more senior member of staff.

In the event that you need to request such a review, you can do so by writing to FOI Unit, Department of Communications, Energy and Natural Resources, Elm House, Earlsvale Rd, Cavan, Co Cavan or alternatively by sending an e-mail to FOLUNIT@dcenr.gov.ie. You should state that you are seeking this review because an initial decision was not sent to you within the time allowed for a response. In that event, you would normally have 4 weeks (after the initial decision should have been sent to you) in which to make the appeal. Consideration will be given to late applications in appropriate circumstances.

Please note the Department of Communications, Energy and Natural Resources has a policy of posting a summary of all non-personal requests and decisions on the Departments website.

Yours sincerely,

Carmel Conaty
FOI Unit

Fáilte ar roimh comhfhreagrais i nGaeilge
Re: FOI request [FOI/2015/38]

I refer to the request which you made under the Freedom of information Act 2014 for records held by this body seeking the following records:

- All correspondence sent and received by Minister Alex White since his appointment concerning the broadcasting charge.
- Any briefing documents prepared for ministers Rabbitte and White concerning the broadcasting charge.
- The minutes of all meetings in the last nine months at which the implementation of the broadcasting charge was discussed.
- Any correspondence sent and received by Minister Alex White concerning the plan to allow An Post access customer databases of Sky, UPC and Eircom.

Following our discussion I have not included documents which go beyond Minister White’s time in this Department or general representations received on the Broadcasting Charge as this would have been a voluminous request. If however there are specific records that I have discounted that you are interested in, please submit as a separate FOI request.

On the basis of what is set out above I have now made a final decision to refuse your request.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request;
2. an explanation of the relevant findings concerning the records to which access is denied, and
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records

A schedule is enclosed with this letter, it shows the documents that this body considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also
refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

2. Findings, particulars and reasons for decisions to deny access

The sections of the Act which can apply to deny access to documents are known as its exemption provisions.

As you will see from the attached schedule I have refused documents 1, 2, and 3 under Sections 28, 29, 35 and 36 of the Act.

Documents 4, 5, 6 and 7 have been refused under Sections 29, 35 and 36 of the 2014 Act.

Section 28 of the Act allows the Decision maker to refuse records submitted to the Government by a Minister and also contains a provision for mandatory refusal of records which reveal statements made at a meeting of the Government. It is my opinion that this provision applies to documents 1, 2 and 3.

The documents in question were refused under Section 35 as information contained in these documents was given with an explicit duty of confidence where disclosure would constitute a breach in that confidence. The documents were also refused under Section 36 of the Act which has mandatory protection for trade secrets, financial, commercial, technical or other information which could reasonably be expected to result in a material financial loss or prejudice the commercial position of that person or prejudice the outcome of contractual negotiations.

As you will see from the attached schedule the documents were also refused under Section 29 of the Act which allows for refusal of records where records relate to the deliberative process of this Department, and it is my opinion that this Section applies to all of the records under consideration as part of this request.

Each of these Sections require that a public interest test be undertaken to consider whether these records are released in the public interest. Essentially this means that we need to consider whether the public interest would be better served by the release of this information then the withholding of this information.

My view as demonstrated in the attached schedule is that the public interest would be on balance be better served by refusing your request than granting it. I have considered many factors in arriving at this decision including the impact of the release of those records.

I have attached a link to the Freedom of Information Act 2014 for your information.

3. Rights of appeal

In the event that you are unhappy with this decision you may appeal it. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Communications, Energy and Natural Resources, Elm House, Earlsvale Road, Cavan or by e-mail to FOI.UNIT@dcenr.gov.ie. You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Should you have any questions or concerns regarding the above, please contact me by telephone on 01-6782508.

Yours sincerely,

Maria Owens
Broadcasting Policy Division
**FOI Request Reference:**

**Schedule of Records: Summary of Decision Making**

**Description of request:**

<table>
<thead>
<tr>
<th>Record No.</th>
<th>Brief Description &amp; Date of Record</th>
<th>File Ref.</th>
<th>No. of Pages</th>
<th>Relevant facts</th>
<th>Findings/conclusions (Public Interest Considerations, If applicable)</th>
<th>Grant/refuse/part-grant</th>
<th>Basis of Refusal: Section of Act</th>
<th>Record edited/Identifydeletions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Speaking Points for Cabinet Meeting 21st April 2015</td>
<td></td>
<td>6</td>
<td></td>
<td>Refuse</td>
<td></td>
<td>Section 28 Section 29 Section 35 Section 36</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Briefing Note for Cabinet Meeting 21st April 2015</td>
<td></td>
<td>6</td>
<td></td>
<td>Refuse</td>
<td></td>
<td>Section 28 Section 29 Section 35 Section 36</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Government Memorandum 21st April 2015</td>
<td></td>
<td>12</td>
<td></td>
<td>Refuse</td>
<td></td>
<td>Section 28 Section 29 Section 35 Section 36</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Information Note on TV Licence</td>
<td></td>
<td>2</td>
<td></td>
<td>Refuse</td>
<td></td>
<td>Section 29 Section 35 Section 36</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Five Year Review of Funding of Public Service Broadcasters Briefing</td>
<td></td>
<td>8</td>
<td></td>
<td>Refuse</td>
<td></td>
<td>Section 29 Section 35 Section 36</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Briefing for the Minister – Meeting with Birgit Gray of E24 Media – 5 November 2014</td>
<td></td>
<td>3</td>
<td></td>
<td>Refuse</td>
<td></td>
<td>Section 29 Section 35 Section 36</td>
<td></td>
</tr>
</tbody>
</table>
| 7. | Developments in Broadcasting and Media – A presentation to Minister White – September 2014 | 76 | | Refuse | Section 29  
Section 35  
Section 36 |