

Arts Queensland

File Note



Department of the
Premier and Cabinet

Subject: Advice from A/DDG-Arts Rebecca Atkinson on RTI matter

Reference: AF/

Submitted by: Olivia Sacre

Date: 8 July 2016

CONFIDENTIAL – This document and its attachments contain legal advice subject to legal professional privilege

5 July 2016

- Arts Queensland prepared a brief on the RTI matter currently under consideration by the Office of the Information Commissioner.
- The brief was generated following Screen Queensland's (SQ) request for the department's position on the option.
- The brief sought approval to not seek an informal resolution with the RTI applicant, Glass Media.
- The brief included legal advice from Crown Law on the merits of this option. See brief ACT16/1089.

8 July 2016

- A/DDG Arts advised that the Director General's office had discussed the issue with the Director General and his advice was not to seek an informal resolution, but to allow the OIC to publish its decision.
- AQ advised SQ of this decision.
- A/DDG Arts advised that the brief had not formally progressed to the DG's office as the DG's office did not require the brief. Therefore there is no written record of this advice.

Approved / Not Approved / More information required.

Scott Martin
Executive Director
Business Performance and Infrastructure

/ /

From: Lucas Clarke
Sent: Thursday, 9 June 2016 11:56 AM
To: Deborah Tanzer
Cc: Tim Herbert; Michael Vickers; Filly Morgan; Leighton Craig
Subject: UPDATE External Review RTID287ER

Dear Deb,

Further to previous discussions regarding the external review by the Office of the Information Commissioner (OIC) on the RTI application by Glass Media (RTID287ER).

I had previously mentioned my view that, if the applicant didn't respond to the OIC's latest letter, then this matter would effectively come to an end (as it did with the Seven Network external review RTID271ER).

However, I have this morning spoken with Jim Forbes of the OIC and confirmed that this is not the case.

Regardless of whether or not the applicant responds to the OIC by the due date (14 June 2016), the OIC will continue with a formal decision that the information in issue (incentive \$ amount) is not exempt information or contrary to the public interest information and therefore should be released to the applicant.

Once that decision is given, any of the participants (DPC/Arts, Screen Queensland or Disney) may seek a review of this decision at QCAT.

This email is merely to advise that my previous assessment (potential for the matter to wither and die) was incorrect.

Submitted for your information.

Regards



Queensland
Government

Lucas Clarke

Manager, Right to Information and Privacy

Government Services

Department of the Premier and Cabinet

P 07 3003 9230

Executive Building, Level 4, 100 George Street, Brisbane QLD 4000

PO Box 15185, City East, QLD 4002

From: Lucas Clarke
Sent: Monday, 19 September 2016 10:42 AM
To: Julia Sheedy; Kirsten Herring (Arts QLD)
Cc: Tim Herbert; Michael Vickers; Filly Morgan; Deborah Tanzer; Olivia Sacre (Arts); Scott Martin (Arts); Lucy Masterson
Subject: RTID287ER Glass Media Application Proceeding to QCAT

Dear Julia / Kirsten,

In refer to the Right to Information application by Glass Media (applicant) regarding investment incentives for Pirates of the Caribbean five.

In this matter the Information Commissioner issued a decision on 18 August 2016, stating the information in issue (incentive amount) was not exempt information and should be released to the applicant, pending the appropriate appeal period to QCAT.

I have today confirmed by telephone that Screen Queensland has appealed this matter to QCAT (Ref APL310-16) within the appeal period (by COB Thursday 15 September 2016).

As such, I will now advise the applicant that I must further defer access to the document in issue until the QCAT appeal process has been finalised.

The department will now await formal notification of this appeal.

Submitted for your information.

Regards



Queensland
Government

Lucas Clarke

Manager, Right to Information and Privacy

Government Services

Department of the Premier and Cabinet

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PO Box 15185, City East, QLD 4002

From: Lucas Clarke
Sent: Monday, 26 August 2019 10:39 AM
To: Stuart Busby; Filly Morgan; Kerri Neuendorf
Cc: Geoff Parton
Subject: RTID287ER - Pirates of the Caribbean - Media Report

Hi Folks,

Here is a media article on the QCAT matter for Pirates of the Caribbean.

https://newsdesk.moreover.com/click/?p=aHR0cHM6Ly9uZXdzZGVzay5tb3Jlb3Zlci5jb20vYXJ0aWNsZS80MDAxODQwMzkwMy5odG1sP2hsaD02ODA1OGI0OCZmaWQ9NDcwNjUzJmNpZD1NVEEzTWpFNSZ1aWQ9TVRFMk5UUTM&a=40018403903&f=UHJpbmQ&s=YWxlcuQ&u=c3VlMkVkbWlzdG9uQHNscS5xbGQuZ292LmF1&cn=R09WVCBSRVNFQVJDSCBBTkQgSU5GT1JNQVRJT04gTEICUkFSWQ&ci=107219&i=1368&si=89530&fmi=654556484&e=VGhllENvdXlpZXIgdWVpYUgU3VuZGF5IE1haWwgKEF1c3RyYWxpYSk&d=116547&t=3&h=1&k=96369&l=91881&fi=470653&ai=130262&ac=130262_1566770894720&ck=4bba7adc00f75eba919dfe3b93f8c0a6

Submitted or your information.

Regards



Queensland
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Manager, Right to Information and Privacy
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Page 5 redacted for the following reason:

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Justin Carpenter

From: Tracey Vieira CTPI - Personal Information
Sent: Tuesday, 13 August 2019 5:17 PM
To: Justin Carpenter
Subject: Fwd: We Won!!!!
Attachments: 20190805163457022.pdf; ATT00001.htm; 20190805163406042.pdf; ATT00002.htm

Here is the decision. As you will see the outcome is very good for Screen Queensland as Justice Sheridan held:

- That the actual figure was exempt under the Cabinet exemption - as per Schedule 3, s.2(1)(b) of the RTI Act - that finding alone means that the figure will now not be released;
- That the Information Commissioner was in error in considering that the John Fairfax test created a separate public interest test in terms of the confidentiality exemption - as per Schedule 3, s.8 of the RTI Act;
- That the Information Commissioner took into account an irrelevant consideration by giving weight as she did to the views of the Queensland Competition Authority; and
- That the Information Commissioner also failed in framing her decision to give appropriate weight to the practical and commercial effect of the disclosure of the amount paid to Disney - and in doing so, failed to take into account a relevant consideration;

On the other grounds of appeal Justice Sheridan found that the Information Commissioner's process was unreasonable but that the decision itself was not unreasonable itself as per the decision in Li. The appeal ground based on the Information Commissioner misconstruing the public interest test was also not upheld.

So this a pretty decisive win all round. Justice Sheridan has set aside the Information Commissioners decision and has held that the figure was exempt under the Cabinet exemption - so that is the end of the matter. There is therefore no need for the Information Commissioner to now reconsider the matter as regards the confidentiality exemption and the public interest test. The information is clearly exempt based on the Cabinet exemption finding.

Justin Carpenter

From: Justin Carpenter
Sent: Tuesday, 13 August 2019 12:14 PM
To: MaryAnne Hunter
Subject: FW: APL310/16 Screen Queensland Pty Ltd -v- Information Commissioner & others
Attachments: 20190805163457022.pdf; 20190805163406042.pdf; APL310-16 Appeals information 05-Aug-2019 (1).doc

As coincidence might have it. . . .

Justin Carpenter
Director (Environment Policy)
Policy Division
Department of the Premier and Cabinet

E justin.carpenter@premiers.qld.gov.au W (07) 30039316 M CTPI - Personal Information Level 30 1 William Street, Brisbane QLD 4000 PO Box 15185, City East, QLD 4002

-----Original Message-----

From: Marguerite Taylor <marguerite.taylor@premiers.qld.gov.au>
Sent: Tuesday, 13 August 2019 8:29 AM
To: Justin Carpenter <justin.carpenter@premiers.qld.gov.au>; Adrian Jones <adrian.jones@treasury.qld.gov.au>
Cc: Michelle Wood <michelle.wood@premiers.qld.gov.au>
Subject: FW: APL310/16 Screen Queensland Pty Ltd -v- information Commissioner & others

Hi Justin and Adrian

Just forwarding this one onto you.

This is linked to whether information about incentives is considered commercial in confidence.

Tracey has the background on this and should be able to bring you up to speed - it has a long history and has been going prior to SQ joining DPC so I'm not aware of all of the ins and outs.

M

Marguerite Taylor
A/ Executive Director
Strategic Policy and Intergovernmental Relations Department of the Premier of Cabinet

P 07 300 39187 M CTPI - Personal Information E marguerite.taylor@premiers.qld.gov.au
Level 29, 1 William Street, Brisbane QLD 4000 PO Box 15185, City East, QLD 4002

-----Original Message-----

From: Judi Carter <judi.carter@premiers.qld.gov.au>
Sent: Monday, 5 August 2019 4:54 PM
To: Marguerite Taylor <marguerite.taylor@premiers.qld.gov.au>
Subject: FW: APL310/16 Screen Queensland Pty Ltd -v- Information Commissioner & others

FYI - does this need to be forwarded to Environment?

-----Original Message-----

From: Lucas Clarke <Lucas.Clarke@premiers.qld.gov.au>

Sent: Monday, 5 August 2019 4:52 PM

To: Judi Carter <judi.carter@premiers.qld.gov.au>; Sophie Webb <Sophie.Webb@premiers.qld.gov.au>; Stuart Busby <stuart.busby@premiers.qld.gov.au>

Cc: Deborah Tanzer <Deborah.Tanzer@arts.qld.gov.au>

Subject: FW: APL310/16 Screen Queensland Pty Ltd -v- Information Commissioner & others

Dear Sophie / Stuart / Judi,

Please find attached the QCAT decision in relation to the long running Pirates of the Caribbean RTI application RTID287ER.

Regards

Lucas Clarke

Manager, Right to Information and Privacy Government Services Department of the Premier and Cabinet

P 07 3003 9230

Level 28, 1 William Street, Brisbane QLD 4000 PO Box 15185, City East, QLD 4002

-----Original Message-----

From: CAD <CAD@justice.qld.gov.au>

Sent: Monday, 5 August 2019 4:46 PM

Subject: APL310/16 Screen Queensland Pty Ltd -v- Information Commissioner & others

Dear Sir/Madam

Please find attached the decision, reasons for decision and appeal information in the above matter.

Regards

Dean Williamson

A/Senior Case Manager | CAD

Queensland Civil and Administrative Tribunal (QCAT) Level 11 | 259 Queen Street | Brisbane Qld 4000 GPO Box 1639

| Brisbane Qld 4001

p: 07 3564 7421

e: cad@justice.qld.gov.au

w: qcat.qld.gov.au

-----Original Message-----

From: ricoh@justice.qld.gov.au [mailto:ricoh@justice.qld.gov.au]

Sent: Monday, 5 August 2019 4:35 PM

To: Dean Williamson <Dean.Williamson@justice.qld.gov.au>

Subject: Message from "RNP002673DFE0A1"

This E-mail was sent from "RNP002673DFE0A1" (MP 5055).

Scan Date: 08.05.2019 16:34:56 (+1000)

Queries to: ricoh@justice.qld.gov.au

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Access refused - s.53(a) - documents are publicly available.

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Justin Carpenter

From: Andrea Coyle [CTPI - Personal Information]
Sent: Monday, 9 September 2019 11:36 AM
To: MaryAnne Hunter; Justin Carpenter; Alice Molomby; Lucas Clarke
Cc: Jo Dillon; Gina Black; Bronwyn Fardon
Subject: Re: Discussion on SQ funding decisions that are considered commercial in confidence and RTI
Attachments: QCAT Decision - SQ v OIC (2019) QCATA 122[1].pdf [Exempt Sch.3(7) Legal Professional Privilege]

PRIVATE & CONFIDENTIAL

Dear MaryAnne and team,

Please find attached the following materials in advance of our meeting this afternoon:

- QCAT decision; and [Exempt Sch.3(7) Legal Professional Privilege]
- [Redacted]

Following our meeting, we will prepare a briefing note for DPC.

We look forward to meeting with you this afternoon to discuss the issues.

Kind regards,
Andrea

Andrea Coyle
Legal & Business Affairs Manager
Screen Queensland

[CTPI - Personal Information]

From: MaryAnne Hunter <MaryAnne.Hunter@premiers.qld.gov.au>
Date: Thursday, 5 September 2019 at 11:07 am
To: Justin Carpenter <justin.carpenter@premiers.qld.gov.au>, Andrea Coyle [CTPI - Personal Information],
Bronwyn Fardon [CTPI - Personal Information], Alice Molomby <alice.molomby@premiers.qld.gov.au>,
Lucas Clarke <Lucas.Clarke@premiers.qld.gov.au>
Subject: Discussion on SQ funding decisions that are considered commercial in confidence and RTI

Agenda

- SQ funding decisions that are considered commercial in confidence and RTI

Attendees

DPC

- Justin Carpenter and Mary-Anne Hunter – Environment Policy
- Lucas Clarke – Manager, Right to Information and Privacy
- Alice Molomby – Principal Legal Officer, Legal Services

Screen Queensland:

- Bronwyn Fardon – Manager Strategic Communications and Policy
- Andrea Coyle – Legal and Business Affairs Manager
- Please feel free to pass this invite on to any other relevant people in SQ – thank you.

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