

28 April 2021

By email: [REDACTED]

Tēnā koe [REDACTED]

Official Information request and response

Thank you for your request under the Official Information Act ("OIA") dated 27 March 2021.

You have referenced an existing OIA response, located [here](#), stating that you are not the original requestor. We confirmed that your request was as follows:

- 1) All material submitted and correspondence to NZ On Air regarding the funding of Circuit 2 for Stuff as shown as previously mentioned. This includes the original proposal for the funding, in whatever format it was presented in.*
- 2) The terms of the contract signed and enforced under section 43 of the Broadcasting Act 1989 of the Circuit 2 funding to Stuff.*

On 30 March 2021 you added the additional questions:

- 1) The response to the previous request included an application form. Based on your revision of question 1 can you confirm that aside from this and the original proposal, there was no other correspondence / material submitted regarding this funding?*
- 2) Specifics of the production budget breakdown have been redacted from the contract, citing section 9(2)(a) of the OIA. Would it be possible to provide a rationale as to why this may either disclose trade secrets or prejudice the commercial position of the production company? I would have expected it to be considered in the public interests to be able to know what proportion of a project's budget is provided by public funds, what other entities are commercially involved in publicly funded projects, and what the split of income share is.*

Our understanding of Ombudsman processes is that if the original requestor is dissatisfied with the response, in the first instance it is recommended that they or their [notified representative](#) may come back to us to seek further clarification. In this situation, as you stated in your original email, you are not acting as a representative of the original requestor. However, we are able to respond to the following aspects of your request.

- 1) Regarding the questions surrounding the contract. This has been released and is available [here](#). With notes regarding specific redactions.
- 2) Regarding the questions surrounding the Proposal Document:
 - a. We can confirm that the correspondence relating to the submission of this project includes the following:
 - i. Application Form (already released)
 - ii. Proposal Document (withheld)
 - iii. Budget (withheld)
 - b. This project is now complete, and we have attached further documentation that can be released, being the Proposal Document. Items have been redacted under
 - i. section 9(2)(b) of the OIA to protect information where the making available of the information—
 - (i) would disclose a trade secret; or
 - (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.
- 3) Regarding your question about redactions relating to production budget breakdown information and applying section 9(2)(a) of the OIA. This section is applied to redactions of email and phone contacts of the third parties involved. This is a standard privacy afforded to natural persons.
- 4) Further to the point above, I believe your question refers to the use of applying section 9(2)(b) of the OIA.
 - a. We have applied guidance from the Ombudsman as outlined [here](#)

Common OIA Misconception:

Before section 9(2)(b)(i) can apply, a prejudice or harm must be shown.

Correct Position:

Section 9(2)(b)(i) applies if, and only if, it is necessary to protect information that, if released, would disclose a trade secret. There is no need to prove that it would be unreasonable to disclose the trade secret at issue or describe any harm to the business interests of those who supplied, or who are the subject of, the information at issue. Rather, it is assumed that any disclosure of trade secrets is damaging.

- b. We have also taken guidance published by the Ombudsman [here](#), in relation to historical complaints about the release of production budgets. In summary, releasing production costs and budgets are likely unreasonably to prejudice the commercial position of the companies involved. Releasing the specifics of that prejudice is potentially damaging.

For your information, funding provided by NZ On Air for all successful projects is searchable on our website. You can also sign up to receive our bi-monthly industry newsletter via our website.

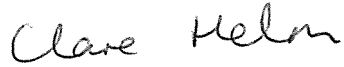
You have the right to refer this response to the Ombudsman if you are dissatisfied with it. More information on how to do this is [here](#). NZ On Air proactively releases information in accordance with the

Connecting and reflecting our nation

Government's commitment to the Open Government Partnership National Action Plan. This includes publishing responses to requests for information under the OIA. Please note that this response (with your name removed) will be published on the NZ On Air website shortly and will remain on our website for 12 months.

Thank you for your interest in our work.

Yours sincerely

A handwritten signature in black ink that reads "Clare Helm". The signature is written in a cursive, flowing style.

Clare Helm

HEAD OF CORPORATE SERVICES