



**Australian Government**  
**Attorney-General's Department**

13/14879

4 November 2013

Corin Tentchoff

Sent by email to: [foi+request-385-6c2c60fa@righttoknow.org.au](mailto:foi+request-385-6c2c60fa@righttoknow.org.au)

Dear Mr/s Tentchoff

**Freedom of Information Request no. 13/145**

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (the FOI Act).

I, Jane Fitzgerald, Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests. On 1 July 2013, you made the following request:

*I hereby request, under the Freedom of Information Act (1982), electronic copies of the following documents cited in section 4 of that decision:*

- *Koch Media GmbH's application for review*
- *Koch Media GmbH's written submissions (and, if reasonably possible, a transcript of their oral submissions)*
- *the Classification Board's report*
- *six submissions from individual gamers*

I have identified 9 documents which fell within the scope of your request. I did this by arranging for searches of the Department's electronic records.

The attached schedule of documents (**Attachment A**) provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

**DECISION AND REASONS FOR DECISION**

I have decided to grant full access to 1 document, partial access to 2 documents (subject to deletions), and refuse access to 6 documents. More information, including the reasons for my decision, is set out below.

## **Material taken into account**

I have taken the following material into account in making my decision:

- the content of the documents that fall within the scope of your request;
- the FOI Act (specifically sections 11A, 47E and 47F); and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

### ***Public interest conditional exemption – personal privacy (s47F)***

Some material within 8 documents is conditionally exempt under subsection 47F(1) of the FOI Act. Subsection 47(1) states that:

*A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*

The material which I have decided to exempt is personal information (names, mobile telephone numbers and private e-mail addresses) contained within the original application form, Board decision and submissions received by the Board in relation to the Saints Row VI application. In my view, releasing this material would involve the unreasonable disclosure of the individuals' personal information and I am satisfied that this material falls within the scope of the conditional exemption for personal information.

### ***Public interest conditional exemption – certain operations of agencies (s47E)***

I consider that disclosure of 6 documents would, or could reasonably be expected to, prejudice or have a substantial adverse effect on the proper and efficient conduct of the operations of the Department.

The Classification Review Board is responsible reviewing certain decisions of the Classification Board in relation to the classification of films, video games and publications for exhibition, sale or hire in Australia. In undertaking its responsibilities, the Review Board allows interested parties to make submissions in relation to the classification of the material subject of the review. This information is provided in confidence to the Review Board and assists them in making their decisions.

I consider that the disclosure of these submissions under the FOI Act would affect the willingness of interested parties in the future to make submissions to the Review Board, which in turn would have a considerable detrimental effect on the Board's decision-making capabilities.

### ***Public interest considerations***

Under section 11A(5) of the FOI Act, access to a conditionally exempt document must be given unless it would be contrary to the public interest. Under the Australian Information Commissioner's Guidelines (Part 6), I have identified the following factors as relevant in determining whether the disclosure of this personal information would cause specific harm.

In favour of disclosure include promoting the objects of the FOI Act and the requirement to provide the Australian community with access to information held by the Commonwealth Government. A factor against disclosure is the requirement not to release information which could *reasonably be*

*expected to prejudice the protection of an individual's right to privacy* and the fact that the disclosure could reasonably be expected to impede the flow of information, and prejudice the agency's ability to obtain confidential information.

As required by subsection 11B(4) of the FOI Act, I have ensured that no irrelevant factors have been considered in reaching this decision. In my view, the factors against disclosure, in particular the importance of maintaining an individual's right to privacy, outweigh any factors in favour of disclosure (such as the right to access Government-held information). I am therefore satisfied that the material noted is conditionally exempt under the Act and that disclosure would be contrary to the public interest.

### **Your review rights**

If you are dissatisfied with my decision, you may apply for an internal review or a review by the Information Commissioner. We encourage you to first seek an internal review as it may provide a more rapid resolution of your concerns.

#### ***Internal review***

Under section 54 of the Act, you may apply in writing to the Freedom of Information and Privacy Section of the Attorney-General's Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

#### ***Information Commissioner review***

Under section 54L of the Act, you may apply to the Australian Information Commissioner for a review of my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter and be lodged in one of the following ways:

Online: <https://forms.australia.gov.au/forms/oaic/foi-review/>

E-mail: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

Post: GPO Box 2999, Canberra ACT 2601

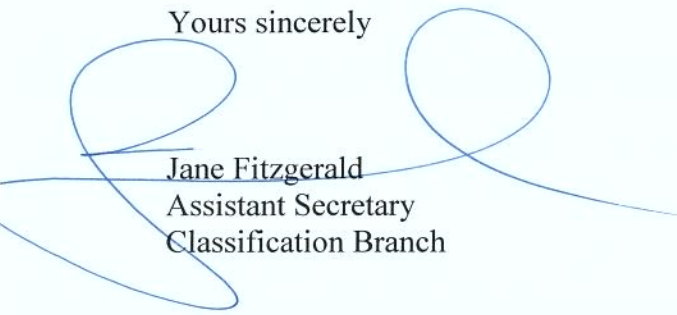
In person: Level 3, 175 Pitt Street, Sydney NSW

More information about reviews by the Information Commissioner is available on the Office of the Australian Information Commissioner website at [http://www.oaic.gov.au/foi-portal/review\\_complaints.html#foi\\_merit\\_reviews](http://www.oaic.gov.au/foi-portal/review_complaints.html#foi_merit_reviews).

### **Questions about this decision**

If you wish to discuss this decision, please contact Samantha Fuz on (02) 6141 4105 or e-mail [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely



Jane Fitzgerald  
Assistant Secretary  
Classification Branch

## **Attachments**

1. Schedule of documents
2. Documents