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Australian Government

Department of Communications and the Arts

FOI reference number: 38-1819

Via email: foi+request-5205-65e2b950@righttoknow.org.au

Dear Requester

I refer to your request on 7 February 2019 for access to documents under the Freedom of Information Act 1982 (FOI Act). You requested the 'application and its supporting material/attachment for the video game Warface.'

Thank you for your payment of \$15.00 for processing your request, received on 12 March 2019.

Authority

I am an officer authorised by the Secretary of the Department of Communications and the Arts (the department) to make decisions about access to documents in the possession of the department in accordance with subsection 23(1) of the FOI Act.

I have made a decision to release documents subject to your request in part.

Documents subject to this request

The Department has undertaken a search of its records and has identified five documents that fall within the scope of your request.

Document Reference	Document Description	Provided in full or in part
1.	Email	part
2.	Email	part
3.	Application Form	part
4.	Attachment	full
5.	Letter	part

Decision

I have made a decision to release the documents relevant to your request in part. Where I have decided to grant access in part, I have provided access to an edited copy of the documents, modified by deletions in accordance with section 22(2) of the FOI Act. The reasons for my decision are at **Attachment A**.

Publication of information in the FOI disclosure log

Section 11C of the FOI Act requires publication of released documents on the department's online FOI disclosure log, subject to certain exceptions, including where publication of personal, business, professional or commercial information would be unreasonable. I have decided that the documents released will be published on the disclosure log.

Your right of review

If you wish to seek an internal review, you must apply to the department within 30 days after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to FOI@communications.gov.au. The department has 30 days in which to make a decision on an internal review.

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (OAIC) to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days after the day you are notified of this decision. You can also make a complaint to the Information Commissioner if you have concerns about how the department handled your request. You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website www.oaic.gov.au or phone the OAIC on 1300 363 992.

Contacts

If you wish to discuss this matter, please contact the department's FOI Coordinator on (02) 6271 1219 or via email at FOI@communications.gov.au

Yours sincerely



Aaron O'Neill
Assistant Secretary
Classification Branch

26 April 2019

FOI reference number: FOI 38-1819

Decision

The documents you have requested are the 'application and its supporting material/attachment for the video game Warface'. There are five documents in scope of your request. I have decided that one document can be released in full and four documents can be released in part.

Material on which my decision is based

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 scope of your request
- Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth
- Relevant provisions of the FOI Act, in particular section 47F
- The Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines)
- The outcome of a third part consultation by the department.

Reasons for decision

Personal privacy (section 47F)

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person (including a deceased person).

'Personal information' is defined under section 4 of the FOI Act as having the same meaning as the *Privacy Act 1988* (Privacy Act). In subsection 6(1) of the Privacy Act, 'personal information' means:

'information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) Whether the information or opinion is true or not; and
- b) Whether the information or opinion is recorded in material form or not.'

The document contains personal information comprising the names and contact details of individuals. This information is 'personal information' for the purposes of subsection 47F(1) of the FOI Act.

In determining whether disclosure of the above information would involve the unreasonable disclosure of the personal information, I have considered the following matters, consistent with subsection 47F(2) of the FOI Act.

- The extent to which the information is well known
- Whether the person to whom the information relates is known to be (or have been) associated with the matters dealt with in the document
- The availability of the information from publicly accessible sources, and
- Any other matters considered relevant.

To my knowledge, the personal information in the documents is not well known and has not been publicly disseminated in any form, and the individuals named are not publicly known to be associated with the matters dealt with in the documents. I also took into account that the staff member named in the documents has left the department and similarly, the department attempted to contact individuals through the company Trion Worlds, and was not able to contact them.

In submitting their application for classification, or in dealing with the matter in the department, I consider that the individuals were not likely to be cognisant that their names, contact details or association with the matters dealt with in the documents may be disclosed. As the department is unable to contact them, they are unable to comment on whether they would object to the disclosure of their details in the context of these documents. Public disclosure of this information without their consent, would be an unreasonable disclosure of personal information about an individual.

I am of the view that if information were released it has the potential to cause harm to the individuals, but I am not able to confirm this with the individuals. Accordingly, I have decided that disclosure would involve the unreasonable disclosure of personal information and the material is conditionally exempt under section 47F of the FOI Act. Where a document is assessed as conditionally exempt, access must be given subject to the public interest test in accordance with section 11A)(5). The public interest is assessed below.

Application of the public interest test

I have found that some material in the documents you have requested is conditionally exempt under section 47F of the FOI Act. Section 11A(5) provides that an agency must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document would, on balance, be contrary to the public interest.

In order to assess whether release of the exempt material would be contrary to the public interest, I considered the following factors outlined in subsection 11B(3) of the FOI Act which favour disclosure:

- Disclosure would promote the objects of the FOI Act
- Disclosure would inform debate on a matter of public importance
- Disclosure would promote effective oversight of public expenditure
- Disclosure would allow a person to access his or her own personal information (not relevant in this instance)

I agree that disclosure of the material may promote the objects of the FOI Act. I do not consider it would inform debate on a matter of public importance or promote oversight of public expenditure.

I also considered the following factors which do not favour disclosure:

In the case of section 47F:

- Disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy.

On balance, I consider the public interest factor against disclosure to be more persuasive than the public interest factors favouring disclosure. I am satisfied that the public interest is to exempt the material indicated in the documents under section 47F of the FOI Act.