

29 May 2024

Annie Connor-Mist

By email only: fyi-request-26641-c1bc0d0c@requests.fyi.org.nz

Official Information Act #23.249 – Response

1. We refer to your request received on 6 May 2024 for information about the change proposal at the Commerce Commission (the Commission).
2. We have decided to decline your request. The information you have requested is confidential due to the change proposal being the subject of internal consultation with staff, active consideration by the Commission, and engagement with Ministers. Decisions on the change process are subject to Government Budget decisions and announcements at the end of May. The Commission's final decisions are expected in mid-June 2024.
3. Accordingly we are withholding the information requested under the following sections of the Official Information Act:
 - 3.1 **Section 9(2)(ba)(i) and (ii):** *“protect information which is subject to an obligation of confidence... where the making available of the information (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or (ii) would be likely otherwise to damage the public interest”*.

We consider the release of details concerning the change proposal would damage the good working relationship between the Commission and employees, given the duty of good faith that is owed by the Commission to its employees.

- 3.2 **Section 9(2)(f)(iv):** *“maintain the constitutional conventions for the time being which protect... the confidentiality of advice tendered by Ministers of the Crown and officials”*.

We consider the premature release of deliberative materials, that are still under active consideration, will limit the Commission's ability to provide advice to Ministers and prevent effective government decision-making.

4. We consider that the above reasons for withholding information are not outweighed by other considerations which would make it desirable, in the public interest, to make the information available (section 9(1) of the OIA).
5. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.
6. Please note the Commission will not be publishing this response to your request on its website.
7. Please do not hesitate to contact us at ويا@comcom.govt.nz if you have any questions about this request.

Yours sincerely

A handwritten signature in black ink, appearing to be the initials 'GM' or similar, written in a cursive style.

OIA and Information Coordinator