



## FREEDOM OF INFORMATION COVERSHEET

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI reference: 24-053

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Schedule	Not applicable
4. Documents	Not applicable
5. Additional information identified	Not applicable
6. Fees	Not applicable
7. Processing time (in working days)	41 days
8. Decision made by Ombudsman	Not applicable
9. Additional information identified by Ombudsman	Not applicable
10. Decision made by ACAT	Not applicable
11. Additional information identified by ACAT	Not applicable

**From:** [REDACTED]  
**To:** [TCCS FreedomOfInformation](#)  
**Subject:** FOI Request  
**Date:** Thursday, 11 April 2024 11:45:00 AM

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Good afternoon FOI Team

Under provisions allowed for in the FOI Act, I seek documents held by TCCS or the Minister's Office which contain information related to gross revenue generated by Go Transit and Ooh Media from advertising on ACT public transport related to Brindabella Christian College or its Early Learning Centres. I seek to know annual revenue generated for the ACT Government from these advertisements and annual revenue generated for Go Transit and ooh Media since the 1 July 2019/2020 financial year.

The Guidelines for advertising on Action Buses clearly indicate contractors must maintain records of gross revenue generated (Clause 1.6.2).

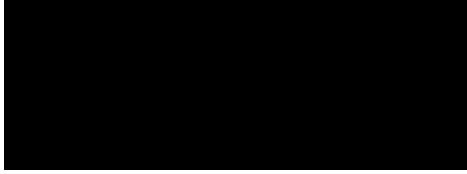
The school has been the subject of intense public interest over recent years including media reports and audits identifying financial distress, repeated losses, significant debts to statutory authorities of PAYG, BAS and staff Super contributions and is currently subject to conditions on its financial management and governance in order to secure ongoing public funding of around \$10million pa as an Approved Authority with the Federal Education Minister following a decision BCEL was not a fit and proper person. The ACNC Charity Register shows the school has been repeatedly overdue in satisfying its financial reporting obligations and MySchool website shows 2020 and 2021 financial statements are still overdue.

[REDACTED]

[REDACTED]

with thanks

[REDACTED]



**Freedom of Information Request - Reference 24-053**

I refer to your application for access to government information received by Transport Canberra and City Services (TCCS) on 11 April 2024. It is my understanding that you are seeking access to the following government information under the *Freedom of Information Act 2016* (FOI Act):

*"I seek documents held by TCCS or the Minister's Office which contain information related to gross revenue generated by Go Transit and Ooh Media from advertising on ACT public transport related to Brindabella Christian College or its Early Learning Centres. I seek to know annual revenue generated for the ACT Government from these advertisements and annual revenue generated for Go Transit and ooh Media since the 1 July 2019/2020 financial year."*

**Timeframes**

A decision is due on your access application by 14 June 2024.

As you are aware, third-party consultation has been completed in accordance with section 38 of the FOI Act.

**Authority**

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the FOI Act.

**Decision on access**

In accordance with the FOI Act, a search of TCCS records has been completed and relevant information has been compiled in a format consistent with your request.

Upon reviewing the information within this record and applying the public interest test under section 17 of the FOI Act, I have found it to be, on balance, contrary to the public interest to provide access to the requested information. As such, I have refused access to the relevant information. Reasons for my decision are explained below.

**Statement of Reasons**

In reaching my decision, I have taken the following into account:

- the FOI Act.
- the content of the documents that fall within the scope of your request.
- submissions provided by relevant third parties.

The FOI Act has a pro disclosure bias, which requires information to be disclosed unless doing so would be contrary to the public interest. As an Information Officer, I must decide where, on balance, public interest lies in the disclosure of government information. Section 17(1) of the Act

sets out the steps for completing the public interest test. As part of this process, I must identify all relevant factors in schedule 1 of the FOI Act. If no factor in schedule 1 is found relevant, I must then consider the factors listed in schedule 2 of the FOI Act and determine, on balance, where the public interest lies.

**Schedule 1:**

- No relevant sections identified.

**Schedule 2:**

**Factors favouring disclosure (Schedule 2.1)**

- Schedule 2.1(a)(ii) - contribute to positive and informed debate on important issues or matters of public interest.
- Schedule 2.2(a)(iii) - inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community.

**Factors favouring non-disclosure (Schedule 2.2)**

- Schedule 2.2(a)(xi) - prejudice trade secrets, business affairs or research of an agency or person.
- Schedule 2.2(a)(xii) - prejudice an agency's ability to obtain confidential information.
- Schedule 2.2(a)(xiii) - prejudice the competitive commercial activities of an agency.

In reviewing the information relevant to your application, I have identified that the advertisements for Brindabella Christian College or its Early Learning Centres has received attention broadly and could contribute to positive and informed debate on matters of public interest. I have also identified that the information partially relates to a commercial agreement between TCCS and its contractor Go Transit, as detailed in contract [2016.27218.210](#) (the Contract) which is publicly available and is linked [here](#).

In making my decision, I have considered how TCCS has come into possession of the relevant information which has been identified to be commercial in confidence in the Contract. Section 8.3(1) of the Contract states that the information may be disclosed if required or authorised to be disclosed under law. For this reason, third-party consultation has been completed under section 38 of the FOI Act.

In reviewing the third-party submission, I find that the information is of concern to a relevant third party, and that factor 2.2(a)(xi) is applicable. In particular, I have considered that the disclosure of media rates and associated values is considered strictly commercial in confidence in the third-party contracts, and disclosure is likely to result in a breach of those contracts. I have also considered that the information relates to pricing methodology of the relevant third-party which is not otherwise publicly available. I acknowledge the third party's concerns that disclosure is likely to prejudice their business affairs as details would provide competitors with insights into pricing structures, and that such knowledge would enable competitors to undercut rates, impact customer relationships or retention, and undermine their competitive position in the market. I have placed significant weight on this factor, as the objections demonstrate the significant likelihood of harm to trade secrets or business affairs if the information was disclosed.

I have also given consideration to the relationship between TCCS and Go Transit, in particular the expectation that TCCS acts within its contractual agreement and in good faith. Actions contrary to these expectations are likely to prejudice the competitive commercial activities of TCCS and inhibit TCCS' ability to obtain confidential information. The risk of harm to commercial activities of TCCS are also likely to be broad reaching, as vendors considering entering into contract with TCCS require assurance that TCCS will act in good faith. I have placed significant weight on Schedule 2.2(a)(xii)

and 2.2(a)(xiii) and find that the disclosure of the requested information is likely to cause significant harm to Go Transit's trade secrets and business affairs, and in turn prejudice the competitive commercial activities of TCCS.

In this instance, I find that the disclosure of the information is, on balance, contrary to the public interest.

### **Charges**

In accordance with [Freedom of Information \(Fees\) Determination 2018](#), a fee of \$0.35 per page of information disclosed, except for the first 50 pages, may be applied to an access application. No fee is applicable as no information is being disclosed.

### **Online publishing – disclosure log**

Under section 28 of the Act, TCCS maintains an online record of access applications called a disclosure log. In accordance with section 28, your application, my decision and the information disclosed to you will be published within 3 – 10 business days. Your personal information will be removed prior to publication. You may view the TCCS' disclosure log [here](#).

### **Ombudsman review**

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in TCCS' disclosure log, or a longer period allowed by the Ombudsman. If you wish to request a review of my decision, you may write to the Ombudsman at:

The ACT Ombudsman  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

### **ACT Civil and Administrative Tribunal (ACAT) review**

Under section 84 of the Act, if a decision is made under section 82 on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision. Further information may be obtained from ACAT at:

ACT Civil and Administrative Tribunal  
GPO Box 370  
CANBERRA CITY ACT 2601  
Telephone: (02) 6207 1740  
[www.acat.act.gov.au](http://www.acat.act.gov.au)

If you have any queries concerning the directorate's processing of your request, or would like further information, please contact the TCCS FOI team on (02) 6207 2987 or email to [tccs.foi@act.gov.au](mailto:tccs.foi@act.gov.au).

Yours sincerely



Lisa Johnson  
Information Officer  
12 June 2024