



14 April 2025

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

Thank you for your letters of 17 March 2025 in which you replied to my response to your previous OIA request (25OIA1865), dated 26 February 2025, and requested further information under the OIA. Your full request is attached as **Appendix A**.

Part 5

In item 22(d) of your request (25OIA1865), you asked for Inland Revenue's "written approvals" signing off the disclosure of information to the three platforms. At the time I identified three memoranda in scope and decided to withhold all the documents in full under section 9(2)(h) of the OIA, to maintain legal professional privilege. You have now requested:

We ask that the documents be released, with redactions included only where necessary to maintain legal professional privilege.

I have decided to continue withholding those documents in full under section 9(2)(h) of the OIA. All the material within those documents is subject to Crown legal professional privilege and therefore limited redactions were not possible. However, I have also identified an additional email dated 10 November 2016. That particular document contains the approval to share information with Meta, separate from the legal advice. I have decided to release this to you, also with some redactions made under sections 9(2)(h) and 9(2)(a), to protect the privacy of natural persons. This is attached as **Appendix B**.

As a result, I can confirm that each of the decisions to disclose information to Google, LinkedIn and Meta (Facebook) were made under section 18D(2) of the Tax Administration Act 1994 (or its predecessor, section 81(1B) – now repealed) by either a Group Tax Counsel (Legal and Technical Services) or Group Leader (Tax Counsel Office). Each decision was made under delegated authority and following legal advice. The decisions were:

- a) Approval decision on 10 November 2016 to disclose information to Facebook / Meta under s81(1B) of the TAA;
- b) Approval decision in September 2017 to disclose information to LinkedIn under s81(1B) of the TAA;
- c) Approval decision on 7 August 2019 to disclose information to Google under s18D(2) of the TAA.

For your information, that statutory test under section 18D(2) states that:

Section 18 [*relating to taxpayer confidentiality*] does not apply if—

- a) a disclosure of sensitive revenue information is made in carrying out or supporting a function lawfully conferred on the Commissioner to—
 - i) administer the tax system;
 - ii) implement the tax system;
 - iii) improve, research, or reform the tax system; and
- b) the Commissioner considers the disclosure is reasonable for the purposes described in paragraph (a), having regard to—
 - i) the Commissioner's obligation at all times to use best endeavours to protect the integrity of the tax system; and
 - ii) the importance of promoting compliance with the law, especially voluntary compliance; and
 - iii) the impact of the disclosure, personally or commercially or in some other way; and
 - iv) the resources available to the Commissioner; and
 - v) the public availability of the information.

Part 6

On 18 March 2025 I provided you with the instructions to find the publicly available information in scope of 22(e) and 22(n) of 25OIA1865. I will reiterate these instructions for completeness.

22(e) and 22(n) links can be found on our website here: <https://www.ird.govt.nz/about-us/publications/responses-to-official-information-act-requests/2024-responses-to-oia-requests>

22(e) can be found under the October 2024 tab (link above), titled "Privacy impact assessment on the use of custom audience lists for advertising campaigns and advice or communications with the Minister, Privacy Commissioner, Ministry of Justice and Crown Law," dated 8 October 2024.

22(n) can be found under the November 2024 tab, with the title "Commissioner's statement about the TPU's and media's misrepresentation of information regarding custom audience lists," dated 21 November 2024.

Parts 7 and 8

You have reiterated your request for:

..information as to whether there have been any staff of IR subject to investigation or a disciplinary process for the leaking of the taxpayer information, and if so what investigation and disciplinary action was taken. If not, why no such action was taken.

Whether there have been any staff subject to investigation or a disciplinary process.

In my response to item 22(k) of request 25OIA1865, I advised that Inland Revenue did an internal review into the circumstances surrounding the unintended disclosures, including whether this was a Code of Conduct matter. Any actions taken as a result, including any employment related outcomes to those staff involved, are confidential.

However, I can confirm that no staff have been the subject of a formal investigation, rather our Internal Assurance team conducted an internal review of the release of the unhashed data to Meta. The review examined what led to the unintended disclosure, the process that was followed and whether or not the release of the data had been appropriately considered and approved.

I have decided to refuse your request for whether staff have been subject to a disciplinary process under section 9(2)(a) of the OIA, to protect the privacy of natural persons. The relevant team only has three people so providing more information would risk the individual(s) being identified.

Additional Request

Part 9 - All electronic messaging made, sent or received by any staff member of IR between 10 October 2024 and 1 January 2025, including text messages, and messaging on any platforms such as Microsoft Teams, that refer to the Taxpayers' Union or discuss any concerted campaigns or misrepresentations as to the leaking of hashed data.

I identified 265 items potentially in scope of your request. 136 of these items are emails sharing two Ministerial Group packs, which includes all OIAs received by Inland Revenue at that point in time. Attached as **Appendix C** are excerpts of these packs that contain requests made by the Taxpayers' Union and/or media (as they relate to the unintended disclosures). I have not included the Taxpayers' Union OIA requests that do not relate to the unintended disclosures. Some information has been withheld under section 9(2)(a) of the OIA, to protect the privacy of natural persons.

On evaluating the remaining 129 items, I concluded that these communications were generated during the OIA decision-making process on your previous OIA requests, as well as on one OIA request relating to the Taxpayers' Union. For example, this includes 24 email discussions on the following OIA request:

- <https://www.ird.govt.nz/-/media/project/ir/home/documents/oia-responses/november-2024/21-11-2024-commissioners-statement-tpus-and-medias-misrepresentation-regarding-custom-audience-lists.pdf?modified=20250203232919&modified=20250203232919>

I believe disclosure of these communications would be likely to inhibit advisors or officials from expressing or recording free and frank advice on OIA requests in the future, and have therefore decided to refuse part of this request under section 9(2)(g)(i) of the OIA, to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

As required by section 9(1) of the OIA, I have considered whether the grounds for withholding the information requested is outweighed by the public interest. In these instances, I do not consider that to be the case.

Right of review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: CommissionersCorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

If you choose to have an internal review, you can still ask the Ombudsman for a review.

Publishing of OIA response

We intend to publish our response to your request on Inland Revenue's website (ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, may be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of enabling more effective participation in the making and administration of laws and policies and promoting the accountability of officials.

Thank you again for your request.

Yours sincerely



Pip Knight
Service Leader, Marketing and Communications

Pip Knight
(Service Leader, Marketing and Communications)
Information Requests
Inland Revenue

By email: oia@ird.govt.nz

Dear Pip,

Relevant Responses

5. Under 22(d) of the Request, three documents were identified in scope, and were withheld on the basis of maintaining legal professional privilege. We ask that the documents be released, with redactions included only where necessary to maintain legal professional privilege.
6. In relation to 22(e) and 22(n) of the Request, IR provided links to “publically available information”. These links take you to a webpage that states “you have been blocked”. The requests for information are therefore reiterated. A screenshot of the problem is annexed to this letter as Appendix B.
7. Under 22(k) we requested information as to whether there have been any staff of IR subject to investigation or a disciplinary process for the leaking of the taxpayer information, and if so what investigation and disciplinary action was taken. If not, why no such action was taken. This information was refused by IR on the basis that “any actions taken as a result, including any employment related outcomes, are confidential”. It was then stated that the information was refused to protect the privacy of natural persons.
8. We reiterate this request, as it was for information on *whether* there have been any staff subject to investigation or a disciplinary process, not *which* staff. Identification of persons is not required for a response to the request to be provided. It is disappointing that IR have continued to be uncooperative in this regard, and could not even advise a yes or no answer.

Additional Request

9. Additionally, we request all electronic messaging made, sent or received by any staff member of IR between 10 October 2024 and 1 January 2025, including text messages, and messaging on any

platforms such as Microsoft Teams, that refer to the Taxpayers' Union or discuss any concerted campaigns or misrepresentations as to the leaking of hashed data.

10. Where IR purport to refuse to provide information on a ground under the Official Information Act, we ask:
 - a. that no documents are refused in full, and that any information it cannot provide is redacted;
 - b. for explanations as to how the relevant withholding ground (if any) applies. Merely re-stating the withholding ground is not sufficient explanation.
11. If clarification of any of this request is needed, please call or email us. We ask that it is made available as soon as possible, and as the information becomes available.

Yours faithfully



Appendix B

From: Graham Tubb s 9(2)(a)
Sent: Thursday, 10 November 2016 3:43 pm
To: Andrew Stott s 9(2)(a)
Cc: Albert Lim s 9(2)(a)
Subject: RE: Facebook audience matching proposal

Andrew,

I am sorry this has taken so long. s 9(2)(h)
[Redacted]
[Redacted] I
agree with s 9(2)(h) the section 81 issue.

s 9(2)(h)
[Redacted]

s 9(2)(h)

in my view
when balancing the various factors in the exemption itself, it is reasonable to provide the
information.

There isn't actually at the end of the day very much more than that to be said. I think that you
can proceed though with all due caution obviously and s 9(2)(h)

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Best regards

Appendix C

Excerpt from Ministerial Group Meeting pack – 27 November 2024

Type	Reference	Customer	Subject	Response resolution	Customer Type	Tags
IR OIA	25OIA1429	s 9(2)(a)	Correspondence (internal and external) regarding the Taxpayers' Union and/or Executive Director of the TPU from September 17, 2024	Partially Released	NZ Taxpayers' Union	GMS, Policy, Senior oversight, Not for Pub
IR OIA	25OIA1581	s 9(2)(a)	All documented evidence CIR based his assertion in a news conference that the TPU and media had engaged in a concerted campaign about IRD's custom audience social media marketing	Partially Released	Media	ED&I, ES - Marketing and Comms, Senior oversight, For Pub

Excerpt from Ministerial Group Meeting pack – 20 November 2024

Reference	Customer	Subject	Owner	Type	Received date	Requester	Rpt to MoR	Due date	Tags
25OIA1581	s 9(2)(a)	All documented evidence CIR based his assertion in a news conference that the TPU and media had engaged in a concerted campaign about IR's custom audience social media marketing	s 9(2)(a)	IR OIA	8/11/2024	Media	05/12/2024	06/12/2024	ED&I, ES - Marketing and Comms, For Pub
25OIA1429	s 9(2)(a)	Correspondence (internal and external) regarding the Taxpayers' Union and/or Executive Director of the TPU from September 17, 2024	s 9(2)(a)	IR OIA	2/10/2024	NZ Taxpayers' Union	(Extended) 25/11/2024	(Extended) 02/12/2024	For Pub, GMS, Policy, Senior oversight