

22 March 2023

s9(2)(a)

Tēnā koe s9(2)(a)

I refer to your request received on 2 February 2023, which has been considered under the Official Information Act 1982 (OIA), for the following information regarding Fairfax Media Photographic Archive:

1. *was an export permit under the Protected Objects Act 1975 granted to Fairfax for the export of the collection?*
2. *whether the Ministry considered seeking the return of the collection from the US government following its seizure (if so, I would like a copy of any advice or communications generated on the subject);*
3. *whether the Ministry considered seeking the return of the collection from its US buyers following its purchase (if so, again I would like a copy of any advice or communications generated on the subject);*
4. *whether the Ministry considered seeking the return of the collection or its components under the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property or the UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (if so, again I would like a copy of any advice or communications generated on the subject).*

Information being released

Please find enclosed the following documents relating to Part One of your request:

Item	Date	Document Description	Decision
1	16 May 2013	Agreement between Fairfax and the Ministry	Released in full
2	25 Feb 2014	Agreement between Fairfax and the Ministry	Released in full
3	8 May 2015	Letter from the Ministry to Fairfax	Released in full

In response to the other parts of your request (two-four), it may be helpful if I first set out the sequence of events.

In 2013, Manatū Taonga granted a temporary export permit for the Fairfax Media Photographic Archive under the Protected Objects Act 1975 (the Act) so that the collection could be sent by Fairfax to the United States for digitisation by Rogers Photo Archive (RPA). Temporary export for this period was authorised for a 10-year period, expiring in 2023.

While the Fairfax Media Photographic Archive in its entirety was not found to be a protected New Zealand object, it was considered that some of the photographs that are part of the Archive could fall under the 'Documentary Heritage Objects' category of protected New Zealand objects, as set out in Schedule 4(3) to the Act (see: <https://www.legislation.govt.nz/act/public/1975/0041/latest/DLM432617.html>).

As part of a temporary export agreement with Fairfax, Manatū Taonga was to assess the contents of the collection as it was digitised and made available for review by Fairfax; and to subsequently advise Fairfax if any part of the collection was required to be repatriated to New Zealand because of its degree of cultural heritage significance, as assessed under the Act.

In 2014, a temporary export certificate was also issued for the Fairfax Media Photographic Archives – Negatives. The Negatives Archive was due to follow the (hard copy) Photographic Archive to the United States for digitisation at a later stage in the project.

In 2015, after the Fairfax Media Photographic Archive's export, Manatū Taonga was advised that Fairfax's agreement with RPA would not be completed. Following a series of developments, the Fairfax Media Photographic Archive went into the ownership of a US-based, Court-appointed Receiver in 2015. Because the Act does not regulate the nationality of ownership of protected New Zealand objects (with the exception of ngā taonga tūturu), only their physical location and export, this development did not trigger the Act.

Fairfax and the Receiver subsequently entered into an agreement for the digitisation of the New Zealand Archive to be completed, with Manatū Taonga to assess the contents of the collection as it was digitised as per our initial temporary export agreement with Fairfax.

Also in 2015, Manatū Taonga revoked the temporary export permission that had been granted to the Fairfax Media Photographic Archives - Negatives, with the agreement of Fairfax New Zealand. The Negatives Archive had remained in New Zealand over the interim period after its earlier-planned export did not take place.

In 2017, Fairfax advised Manatū Taonga that an Amendment Agreement had been reached between the Court-appointed Receiver of RPA and Fairfax New Zealand, and that agreement was endorsed by an Arkansas Court. Fairfax and the Receiver, the First Arkansas Bank & Trust, agreed to the repatriation of the Fairfax Media Photographic Archive from the United States to New Zealand upon the completion of its digitisation. The Amendment Agreement also included acknowledgement that once back in New Zealand, the Fairfax Media Photographic Archive would remain subject to the terms of the Act in respect of any future export.


In August 2017, Fairfax New Zealand confirmed to Manatū Taonga that the Fairfax Media Photographic Archive had been physically returned to New Zealand and was being held in storage in Auckland. The temporary export permission for the Fairfax Media Photographic Archive was closed at that time and Manatū Taonga's review of the digitised Fairfax Media Photographic Archives ended at that point.

Manatū Taonga understands that the Fairfax Media Photographic Archive has subsequently changed hands from the First Arkansas Bank & Trust to a new owner.

With respect to questions 2, 3, and 4, as Manatū Taonga was advised that the Fairfax Media Photo Archive was returned to New Zealand in 2017, these steps were not considered.

Nāku noa, nā

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Pou Mataaho o Te Hua - Deputy Chief Executive, Delivery