

21 April 2023

s9(2)(a)

Tēnā koe s9(2)(a)

I refer to your request received on 28 March 2023, which has been considered under the Official Information Act 1982 (OIA), for the following information:

All advice on monitoring arrangements for the collection agency established under the Resale Right for Visual Artists Bill. In particular, I am seeking advice on the decision not to include it in the OIA, and to have only monitoring by the Ministry.

On 4 April 2023, we wrote to you advising that the Cabinet paper and associated material was published on the Ministry's website. On 14 April 2023, we also emailed to advise that the regulations that are to accompany the bill have been proactively released.

With this context in mind, the remaining documents relevant to your request are listed below:

Item	Date	Document Description
1	5 May 2023	BR2022/033: A New Zealand Artist Resale Royalty scheme: Policy settings and engagement with sector stakeholders
2	12 July 2022	Email exchange between Manatū Taonga and Treasury
3	14 July 2022	BR2022/353: Artist Resale Royalty Cabinet paper cover briefing to support Ministerial consultation

I have decided to release the documents listed above, subject to information being withheld under one or more of the following sections of the OIA, as applicable:

- *section 9(2)(a) – to protect the privacy of natural persons*
- *section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials*
- *section 9(2)(g)(i) – the free and frank expression of opinions*

As agreed with you on 17 April 2023, some identifiers such as names and comments that would likely identify organisations have been removed. This is to provide a response to you sooner, as third-party consultation would require contacting multiple agencies. However, Manatū Taonga are able to consult with these third parties, should you wish to take this approach.

As also agreed on 20 April 2022, I have included information from an additional document containing draft advice on the decision not to include the monitoring agency under the OIA. This has been provided in a summary form below. As agreed, we have

excluded the remainder of the content in order to provide a response to this particular part of your request sooner, as consultation would have resulted in an extension of the timeframe.

On 8 February 2023, Manatū Taonga requested that the Parliamentary Counsel Office draft the Resale Right for Visual Artists Bill, and advised that the collection agency should not be subject to the OIA. This request was made because the collection agency will be a non-government organisation (NGO) and so it was believed that it would not have the resourcing to respond to OIA requests. Additionally, NGOs are not typically subject to the OIA. Manatū Taonga, as a Crown agency, remains subject to the OIA while carrying out its monitoring function under the Bill.

Information publicly available

The following information is expected to be proactively released on Manatū Taonga's website by 24 May 2023:

Item	Date	Document Description
4	8 March 2023	Cabinet paper discussion document: Resale Right for Visual Artists Regulations, with two associated appendices

Accordingly, I have refused your request for the document listed in the above table under section 18(d) of the OIA – the information requested will soon be publicly available.

In addition, Appendix 5: Cabinet Paper for Ministerial Consultation of the enclosed BR2022/033 has been refused under 18(d) of the OIA – the information is already publicly available. This is a draft version of the already publicly available Cabinet Paper, and there have been no substantive changes between this version and the final version published on Manatū Taonga's website.

If you wish to discuss this decision with us, please feel free to contact uia@mch.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā

s9(2)(a)

Emily Fabling

Pou Mataaho o Te Aka - Deputy Chief Executive, Policy and Sector Performance