

Western Australian Auditor General's Report



Opinions on Ministerial Notifications



Report 8: 2019-20
8 October 2019

**Office of the Auditor General
Western Australia**

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Opinions on Ministerial Notifications



**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

OPINIONS ON MINISTERIAL NOTIFICATIONS

This report has been prepared for Parliament under the provisions of section 24 of the *Auditor General Act 2006*.

It deals with 2 decisions by the Minister for Tourism, the Hon Paul Papalia CSC MLA, not to provide information to Parliament about:

- the funding breakdown for the 2018 'Perth turns up the heat in summer' tourism campaign
- the business cases presented to airlines during the Minister's second trip to India.

CAROLINE SPENCER
AUDITOR GENERAL
8 October 2019

Contents

Ministerial decisions not to provide information to Parliament	2
Introduction	2
What we did	2
Ministerial decision not to provide the funding breakdown for the 2018 ‘Perth turns up the heat in summer’ tourism campaign	3
Opinion.....	3
Background	3
Key findings.....	3
Ministerial decision not to provide the business cases presented to airlines during the Minister’s second trip to India	5
Opinion.....	5
Background	5
Key findings.....	5
Appendix 1: Full response to Legislative Assembly Question on Notice 4490	7

Ministerial decisions not to provide information to Parliament

Introduction

This report deals with 2 decisions by the Minister for Tourism, the Hon Paul Papalia CSC MLA, not to provide information to Parliament about:

- the funding breakdown for the 2018 'Perth turns up the heat in summer' tourism campaign
- the business cases presented to airlines during the Minister's second trip to India.

Section 82 of the *Financial Management Act 2006* (the FM Act) requires a Minister who decides that it is reasonable and appropriate not to provide certain information to Parliament, to give written notice of the decision to both Houses of Parliament and the Auditor General within 14 days of the decision.

Section 24 of the *Auditor General Act 2006* requires the Auditor General to provide an opinion to Parliament as to whether the Minister's decision was reasonable and appropriate.

It is our longstanding approach to enquire into only those matters raised in the Minister's written notice. It would be onerous and impractical for us to identify and report on all other Ministerial decisions not to provide information to Parliament. When we do become aware that a Minister has decided not to provide information to Parliament, we may write to them reminding them of their obligations under section 82 of the FM Act.

What we did

The Audit Practice Statement on our website (www.audit.wa.gov.au) sets out the process we follow to arrive at our section 82 opinions, including:

- a review of entity documents
- a review of any advice provided to the relevant Minister by entities, the State Solicitor's Office or other legal advisers
- interviews with key entity persons including discussions about our draft findings and the Auditor General's opinion.

Our procedures are designed to provide sufficient appropriate evidence to support an independent view to Parliament on the reasonableness and appropriateness of the Minister's decision.

We have not performed an audit, however, our procedures follow the key principles in the Australian Auditing and Assurance Standards.

Ministerial decision not to provide the funding breakdown for the 2018 ‘Perth turns up the heat in summer’ tourism campaign

Opinion

The decision by the Minister for Tourism, the Hon Paul Papalia CSC MLA, not to provide Parliament with the funding breakdown for the 2018 ‘Perth turns up the heat in summer’ tourism campaign was reasonable and therefore appropriate.

Background

On 12 February 2019, the Hon Dr Mike Nahan MLA asked the Minister for Tourism for information about a 2018 summer tourism campaign in Question on Notice 4490.

Part (c) requested the following information:

(c) Will the Minister table a breakdown of the funding for this campaign?

On 12 March 2019, the Minister declined to give this information, replying:

(c) Information pertaining to the amount invested by Tourism Western Australia (Tourism WA) in individual campaigns has a commercial value and its disclosure could cause commercial harm to the State and the agency’s campaign partner. Disclosing the amount of Tourism WA’s investment could provide a competitive advantage to other States/Territories and potential campaign partners. Accordingly, I will notify the Auditor General’s office and both houses of Parliament that part (c) of this question will not be answered as per section 82 of the Financial Management Act 2006.

The full transcript of the Parliamentary question and the Minister’s response is in Appendix 1.

On 1 April 2019, the Auditor General received the Minister’s notification of the decision not to provide the requested information, in accordance with section 82 of the FM Act.

Key findings

The decision by the Minister not to provide the requested information was reasonable and therefore appropriate.

The Minister properly sought advice from the Department of Jobs, Tourism, Science and Innovation (the Department) before responding to the request. The Department recommended the Minister decline to provide the funding breakdown as it was commercially sensitive and releasing it could provide a competitive advantage to other states and potential campaign partners.

The Department’s recommendation was based on an assessment against its *Release of Event Sponsorship Information and/or other Commercial Information policy and guidelines*. As we have previously determined¹, this document provides suitable criteria for assessing if information is commercially sensitive.

We determined that the Department’s advice was sound, as:

¹ Western Australian Auditor General’s Report, *Opinions on Ministerial Notifications*. Report 8: December 2018-19, pages 6 & 8.

- the funding breakdown was not publicly known nor easily ascertainable at the time the Minister was asked the Parliamentary question
- the breakdown has significant commercial value to Tourism WA. As we have previously acknowledged², all jurisdictions actively compete for visitors and travel partners to deliver campaigns. These jurisdictions could use the funding breakdown to gain a competitive advantage
- future campaigns could become more expensive for Tourism WA to deliver. The release of the information could provide key intelligence to other jurisdictions which they could use to offer more favourable terms to tourism partners. It could also limit Tourism WA's ability to negotiate favourable terms with partners on future campaigns.

In our view, the Minister's decision not to provide the funding breakdown is consistent with the public interest of protecting and reducing the risk of damage to the financial and commercial affairs of the State.

² Ibid.

Ministerial decision not to provide the business cases presented to airlines during the Minister's second trip to India

Opinion

The decision by the Minister for Tourism, the Hon Paul Papalia CSC MLA, not to provide Parliament the airline business cases presented during the Minister's second trip to India was reasonable and therefore appropriate.

Background

On 2 April 2019, the Hon Dr Mike Nahan MLA asked the Minister for Tourism for the business cases presented to airlines during the Minister's second trip to India, in Question on Notice 4972.

On 7 May 2019, the Minister declined to give this information, replying:

"Business cases presented to airlines contain commercially sensitive information which would disadvantage the State against its competitors if made publicly available, and risk damaging discussions with airlines themselves whose preference is to maintain a level of confidentiality."

On 13 May 2019, the Auditor General received the Minister's notification of the decision not to provide the requested information in accordance with section 82 of the FM Act.

Key findings

The decision by the Minister not to provide the business cases was reasonable and therefore appropriate.

The Minister properly sought advice from the Department of Jobs, Tourism, Science and Innovation (Department) before responding to the request. The Department recommended the Minister decline to table the business cases as they have a commercial value and their disclosure could adversely impact on future negotiations with other airlines whilst developing new routes.

The Department's recommendation was based on an assessment against its *Release of Event Sponsorship Information and/or other Commercial Information Policy Guidelines*. As we have previously determined³, this document provides suitable criteria for assessing if information is commercially sensitive.

We determined that the Department's advice was sound, as:

- most of the information in the business cases was not generally known nor easily ascertainable at the time the Minister declined to provide it. The portions that were publicly available were not significant, and included photographs of well-known tourist attractions and widely known event information
- the detailed analysis included in the business cases has significant commercial value to Tourism WA. As we have previously acknowledged⁴, all jurisdictions actively compete for visitors and travel partners to deliver campaigns. The business cases were

³ Western Australian Auditor General's Report, *Opinions on Ministerial Notifications*. Report 8: December 2018-19, pages 6 & 8.

⁴ Ibid.

developed for the purpose of attracting direct flights from India to Perth. If disclosed, other jurisdictions could use the business cases to develop a compelling argument to attract airline partners.

In our view, the Minister's decision not to provide the business cases is consistent with the public interest of protecting and reducing the risk of damage to the financial and commercial affairs of the State.

Appendix 1: Full response to Legislative Assembly Question on Notice 4490

On 12 February 2019, the Hon Dr Mike Nahan MLA asked the Minister for Tourism, the Hon Paul Papalia CSC MLA, Legislative Assembly Question on Notice 4490.

4490. Dr M.D. Nahan to the Minister for Tourism:

I refer to the media release titled "Perth turns up the heat in summer tourism campaign" dated 7 November 2018 and I ask:

- (a) What is the total cost of this campaign;*
- (b) Is Expedia, or any hotel receiving money from the State Government to subsidise the cost of hotel rooms? If yes, how much;*
- (c) Will the Minister table a breakdown of the funding for this campaign;*
- (d) Was any market testing done before this campaign;*
- (e) Was a business case prepared for this campaign;*
- (f) If yes to (d), will the Minister table the business case; and*
- (g) Are there are key performance indicators including return on investment to measure the success of this campaign? If yes, what are the key performance indicators?*

On 12 March 2019, the Minister declined to give this information, replying:

- (a) \$946,000 (across media, production, research and cooperative travel partnership).*
- (b) No.*
- (c) Information pertaining to the amount invested by Tourism Western Australia (Tourism WA) in individual campaigns has a commercial value and its disclosure could cause commercial harm to the State and the agency's campaign partner. Disclosing the amount of Tourism WA's investment could provide a competitive advantage to other States/Territories and potential campaign partners. Accordingly, I will notify the Auditor General's office and both houses of Parliament that part (c) of this question will not be answered as per section 82 of the Financial Management Act 2006.*
- (d) Yes.*
- (e) No.*
- (f) Not applicable.*
- (g) In addition to return on investment, the key performance indicators were:
Increase in the number of consumers who booked a holiday to Perth.
Increase in room nights booked.
Increase in awareness of Perth as an affordable holiday destination.*

Auditor General's reports

Report number	2019-20 reports	Date tabled
7	Opinions on Ministerial Notifications	26 September 2019
6	Opinions on Ministerial Notifications	18 September 2019
5	Fraud Prevention in Local Government	15 August 2019
4	Access to State-Managed Adult Mental Health Services	14 August 2019
3	Delivering Western Australia's Ambulance Services – Follow-up Audit	31 July 2019
2	Opinion on Ministerial Notification	26 July 2019
1	Opinions on Ministerial Notifications	19 July 2019

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