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s 22(1)(a)(ii)

From: Cox, Greg <Greg.Cox@dbcde.gov.au>
Sent: Friday, 11 November 2011 3:48 PM
To: s 22(1)(a)(ii)
Cc: Trindade, Dominic; Bird, Gillian; Suckling, Patrick; Lynch, Philippa; Pelling, Simon; Dalidakis, Philip; Markus, Don; s 22(1)(a)(ii) Ferrari, Tanya
Subject: RE: Draft response Australian News Channel Pty Ltd 11 Nov 11 (2).doc [SEC=IN-CONFIDENCE]

s 22(1)(a)(ii) thanks for providing the revised version.
s 42

Thanks

Greg

Greg Cox
A/g First Assistant Secretary
Broadcasting and Digital Switchover
Ph: (02) 6271 1763 | Mobile: 0412 351 051 | Fax: (02) 6271 1717
greg.cox@dbcde.gov.au | www.dbcde.gov.au

Department of Broadband, Communications and the Digital Economy
38 Sydney Avenue, Forrest ACT 2603 | GPO Box 2154, Canberra ACT 2601

From: s 22(1)(a)(ii)
Sent: Friday, 11 November 2011 3:07 PM
To: s 22(1)(a)(ii) Cox, Greg
Cc: Trindade, Dominic; Bird, Gillian; Suckling, Patrick; Lynch, Philippa; Pelling, Simon; Dalidakis, Philip; Markus, Don; s 22(1)(a)(ii) Ferrari, Tanya
Subject: Draft response Australian News Channel Pty Ltd 11 Nov 11 (2).doc [SEC=IN-CONFIDENCE]

<<Draft response Australian News Channel Pty Ltd 11 Nov 11 (2).doc>> <<Draft response Australian News Channel Pty Ltd 11 Nov 11 (2).doc>>

s 22(1)(a)(ii)

Dear Greg,

Attached is the current version of the draft response to ANC. It includes the changes required by PM&C (I have attached the PM&C marked up version for traceability). DBCDE have advised that they had no changes to our original draft and have not seen the PM&C amendments (but see attached marked up letter).

Regards

s 22(1)(a)(ii)
Senior Executive Lawyer
Australian Government Solicitor
TS 1358 TS MS
s 22(1)(a)(ii)

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s 22(1)(a)(ii)

From: Leon, Renee <Renee.Leon@pmc.gov.au>
Sent: Friday, 11 November 2011 6:12 PM
To: s 22(1)(a)(ii)
Cc: Bird, Gillian
Subject: tender costs [SEC=IN-CONFIDENCE:LEGAL]

Further to our recent discussion, I confirm that DOFD has agreed to the "without prejudice" offer in the draft letter to ANC to consider contribution to costs of the tender process. s 34(3)
s 34(3)

We envisage s 34(3)
s 34(3)
s 34(3) if by then your assessment of the claim by the tenderer leads you to conclude that is the appropriate course.

Renée Leon
Deputy Secretary, Governance
Tel: (02) 6271 5303

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s 22(1)(a)(ii)

From: Bird, Gillian
Sent: Friday, 11 November 2011 6:15 PM
To: Leon, Renee s 22(1)(a)(ii)
Subject: RE: tender costs [SEC=IN-CONFIDENCE:LEGAL]

Thanks - we will need to discuss the process by which the Commonwealth assesses the claim by the tenderer. Cheers, Gillian

---

Gillian Bird
Deputy Secretary and Ambassador to ASEAN
Department of Foreign Affairs and Trade

Tel: +61 2 62613611
Fax: +61 2 6273 2081

From: Leon, Renee [mailto:Renee.Leon@pmc.gov.au]
Sent: Friday, 11 November 2011 6:12 PM
To: s 22(1)(a)(ii)
Cc: Bird, Gillian
Subject: tender costs [SEC=IN-CONFIDENCE:LEGAL]

Further to our recent discussion, I confirm that DOFD has agreed to the "without prejudice" offer in the draft letter to ANC to consider contribution to costs of the tender process. s 34(3)
s 34(3)

We envisage s 34(3)
s 34(3)
s 34(3) if by then your assessment of the claim by the tenderer leads you to conclude that is the appropriate course.

Renée Leon
Deputy Secretary, Governance
Tel: (02) 6271 5303

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Australian Government

Department of Foreign Affairs and Trade

File Number: 11/12733

11 November 2011

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File: 14/13090
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Mr Angelos Frangopoulos
Chief Executive Officer
Australian News Channel Pty Ltd
Locked Bag 918
North Sydney NSW 2059

Commercial-in-confidence

Dear Mr Frangopoulos,

Request for Tender for the provision of an international Australian television service and associated digital media services

I thank you for your letter of 8 November 2011.

As advised on 7 November 2011, the Government has taken the decision that it is in the public interest that the Australia Network tender process be terminated. As the matter has been referred to the AFP for investigation I am unable to provide any comment on the conduct of the tender process.

I advise that I am also unable to provide further particulars of the advice of the Australian Government Solicitor referred to in the statement of the Minister for Broadband, Communications and the Digital Economy made on 7 November 2011.
Having regard to the circumstances leading to the termination of the tender process, and notwithstanding clause 4.2 of the Conditions of Tender in the Request for Tender, the Commonwealth may, on a "without prejudice" basis, be prepared to consider making some contribution to your company's reasonable costs of tendering. Accordingly you are requested to provide full details of your tendering costs, together with supporting documentation by 30 November 2011.

I look forward to receiving details of your tendering costs and I appreciate your company's participation in the Australia Network tender process.

Yours sincerely
s 22(1)(a)(ii)

Australia Network Secretariat

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 15 November 2011 4:25 PM
To: s 22(1)(a)(ii)

Cc: Drabsch, Shaun (Shaun.Drabsch@dbcde.gov.au); philip.dalidakis@dbcde.gov.au; Cox, Greg (Greg.Cox@dbcde.gov.au); Leon, Renee (Renee.Leon@pmc.gov.au); Philippa.Lynch@pmc.gov.au; 'david.martine@finance.gov.au'; Bird, Gillian; Suckling, Patrick; Trindade, Dominic

Subject: Australia Network: Letters from ANC [SEC=IN-CONFIDENCE:LEGAL]

Dear s 22(1)(a)(ii)

s 22(1)(a)(ii)

- s 22(1)(a)(ii)

- s 22(1)(a)(ii)

I am copying this email to Senator Conroy's office, his department, the Department of the Prime Minister and Cabinet and the Department of Finance and Deregulation. I anticipate that the Government will require assistance from AGS in formulating its response/s to the two ANC letters. s 22(1)(a)(ii)
s 22(1)(a)(ii)

In formulating its response/s, AGS should consult as necessary with Senator Conroy and/or his office, the Department of Broadband, Communications and the Digital Economy, the Department of the Prime Minister and Cabinet, and the Department of Finance and Deregulation. s 22(1)(a)(ii)
s 22(1)(a)(ii)

Yours sincerely,

s 22(1)(a)(ii)
Australia Network Secretariat
Department of Foreign Affairs and Trade
ph: s

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Australian Government

Department of Foreign Affairs and Trade

File Number: 11/12733

17 November 2011

Mr Angelos Frangopoulos
Chief Executive Officer
Australian News Channel Pty Ltd
Locked Bag 918
North Sydney NSW 2059

"Without prejudice & Confidential"

Dear Mr Frangopoulos,

I refer to your correspondence of 15 November 2011 wherein you have advised that ANC is seeking to claim compensation from the Commonwealth for its costs of participating in the now terminated Australia Network (AN) tender process.

As you would be aware, the AN tender process has been terminated in accordance with the Commonwealth's reserved rights as set out in the AN Conditions of tender. Under those tender conditions each party is responsible for their own tender costs.

Notwithstanding these tender conditions, in my letter to you of 11 November 2011, I flagged that on a "without prejudice" basis the Commonwealth may nevertheless be prepared to make a contribution to ANC's tender costs. In accordance with your previous offer to provide particulars of these tender costs, I requested these particulars so as to enable the matter to be further considered by the Government.

s 45

No particulars of ANC's tender costs have however been provided.

In order to assist the Commonwealth to further consider your claim and current offer of settlement could you please provide these particulars as soon as possible. It is only when these particulars have been received and can be reviewed by the Commonwealth that your request for compensation can be properly considered by the Commonwealth.

Yours sincerely
s 22(1)(a)(ii)

Australia Network Secretariat

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Pages 8-15 exempt in full

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Australian Government

Department of Foreign Affairs and Trade

File Number: 11/12733

28 November 2011

Mr Angelos Frangopoulos
Chief Executive Officer
Australian News Channel Pty Ltd
Locked Bag 918
North Sydney NSW 2059

"Without prejudice & Confidential"

Dear Mr Frangopoulos,

I refer to your letter of 24 November 2011.

I had requested in my letters of 11 and 17 November 2011 that you provide full details of your tendering costs, together with supporting information, s 45
s 45

s 45

In order that the Commonwealth may consider making a contribution to ANC's tender costs I request that you provide appropriate supporting information, including details of the basis of calculation for each category of loss claimed and copies of relevant supporting information.

I am not in a position to provide confirmation that your costs will be met and reimbursed by 6 December 2011, however the earlier you are able to provide the particulars requested, the sooner a Commonwealth response will be provided.

s 22(1)(a)(ii)

I again request that in order to progress this matter you provide appropriate particulars and supporting material for the costs you have claimed.

Yours sincerely
s 22(1)(a)(ii)

Australia Network Secretariat

s 22(1)(a)(ii)

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From: s 22(1)(a)(ii)
Sent: Tuesday, 6 December 2011 3:39 PM
To: s 22(1)(a)(ii) Drabsch, Shaun (Shaun.Drabsch@dbcde.gov.au); philip.dalidakis@dbcde.gov.au; Cox, Greg (Greg.Cox@dbcde.gov.au); Leon, Renee (Renee.Leon@pmc.gov.au); Phillippa.Lynch@pmc.gov.au; s 22(1)(a)(ii)
Cc: Bird, Gillian; Suckling, Patrick; Trindade, Dominic; s 22(1)(a)(ii) Ganly, Paula
Subject: FW: Australia Network Tender - Letter from Australian News Channel Pty Ltd [SEC=IN-CONFIDENCE:LEGAL]

Dear All,

Please see attached latest correspondence from Mr Frangopoulos, Australian News Channel (ANC) providing a further breakdown of ANC's costs of participating in the tender and seeking a payment of these costs by 14 December. I await further guidance with respect to this latest ANC correspondence.

s 22(1)(a)(ii)

Australia Network Secretariat
Department of Foreign Affairs and Trade

ph: s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 34(3)

Shaun

Shaun Drabsch
Chief of Staff

Office of Senator Stephen Conroy
Deputy Leader of the Government in the Senate
Minister for Broadband, Communications and the Digital Economy

Melbourne
(03) 9650 1188
(03) 9650 3251
Level 3, 4 Treasury Place
Melbourne 3002

Canberra
(02) 6277 7480
(02) 6273 4154
Suite MG 70, Parliament House
Canberra 2600

M: 0417708393
E: shaun.drabsch@dbcde.gov.au

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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File: 14/13090
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From: s 22(1)(a)(ii)
Sent: Tuesday, 6 December 2011 3:39 PM
To: s 22(1)(a)(ii) Drabsch, Shaun (Shaun.Drabsch@dbcde.gov.au); philip.dalidakis@dbcde.gov.au; Cox, Greg (Greg.Cox@dbcde.gov.au); Leon, Renee (Renee.Leon@pmc.gov.au); Philippa.Lynch@pmc.gov.au; s 22(1)(a)(ii)
Cc: Bird, Gillian; Suckling, Patrick; Trindade, Dominic; Willis, Max; Ganly, Paula
Subject: FW: Australia Network Tender - Letter from Australian News Channel Pty Ltd [SEC=IN-CONFIDENCE:LEGAL]

Dear All,

Please see attached latest correspondence from Mr Frangopoulos, Australian News Channel (ANC) providing a further breakdown of ANC's costs of participating in the tender and seeking a payment of these costs by 14 December. I await further guidance with respect to this latest ANC correspondence.

s 22(1)(a)(ii)

Australia Network Secretariat
Department of Foreign Affairs and Trade
ph: s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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Australian Government

Department of Foreign Affairs and Trade

File Number: 11/12733

15 December 2011

Mr Angelos Frangopoulos
Chief Executive Officer
Australian News Channel Pty Ltd
Locked Bag 918
North Sydney NSW 2059

"Without prejudice & Confidential"

Dear Mr Frangopoulos,

We refer to your letter of 6 December 2011 itemising expenses incurred by ANC as a result of its participation in the now terminated AN tender process. Thank you for providing the basis of calculation of costs claimed.

As previously advised, the Australian Government remains willing to consider payment to ANC for expenses incurred. You will appreciate, however, that proper claim assessment and verification processes need to be followed before any payment can be made.

It would assist the Commonwealth if you could make available a folder of supporting documentation, including copies of relevant source material or other supporting documentation for each of the itemised categories.

We look forward to receiving this information at your earliest convenience.

We note your request for prompt payment. It is not possible for your claim to be processed within the timeframe you have requested, however the earlier you are able to provide all relevant supporting material the sooner a Commonwealth response will be provided.

Yours sincerely

s 22(1)(a)(ii)

Australia Network Secretariat

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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From: s 22(1)(a)(ii)
Sent: Wednesday, 21 December 2011 10:45 AM
To: s 22(1)(a)(ii) Trindade, Dominic; Suckling, Patrick; Bird, Gillian; s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: Australia Network tender - report to AGD [SEC=IN-CONFIDENCE:LEGAL]

Hello all, s 22(1)(

As discussed with this morning I was contacted yesterday by the Office of Legal Services Coordination within AGD requesting an update report on this matter for the new Attorney-General, Ms Roxon. A report was previously submitted in September.

I have prepared the attached draft report. I was not intending to send any additional material with it - although this may be requested.

Could you review the draft report and let me have an approved version for submission to OLSC? I would like to do this later today or tomorrow if possible.

s 22(1)(a)(ii) I have begun preparing the advice on liability / discretionary payment options but do not expect to complete this until the week of my return.

Please call me if you have any queries.

Regards,
s 22(1)(a)(ii)

s 22(1)(a)(ii)

Senior Executive Lawyer
Australian Government Solicitor
T s 22(1)(a)(ii) F s 22(1)(a)(ii) M s 22(1)(a)(ii)
s 22(1)(a)(ii)
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s 34(3)

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s 34(3)

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Friday, 13 January 2012 4:50 PM
To: s 22(1)(a)(ii)
Cc: Drabsch, Shaun; Dalidakis, Philip; Cox, Greg; Renee.Leon@pmc.gov.au; Philippa.Lynch@pmc.gov.au; s 22(1)(a)(ii) Bird, Gillian; Suckling, Patrick; Trindade, Dominic; Willis, Max; s 22(1)(a)(ii) Dawson, Emma
Subject: RE: Australia Network: follow-up letter from ANC [SEC=IN-CONFIDENCE:LEGAL]
Attachments: Response to ANC letter.doc 13 Jan 2012 (1).doc; Response to ANC letter.doc 13 Jan 2012 (2).doc

Dear s 22(1)(a)(ii)

I have prepared two short responses to the ANC letters of 23 December 2011 in relation to the compensation claim and s 22(1)(a)(ii)

s 42

s 22(1)(a)(ii)

Many thanks,

s

s 22(1)(a)(ii)
Senior Executive Lawyer
Australian Government Solicitor
T s 22(1)(a)(ii) F s 22(1)(a)(ii) M s 22(1)(a)(ii)
s 22(1)(a)(ii)
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s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Monday, 16 January 2012 1:00 PM
To: Trindade, Dominic
Cc: s 22(1)(a)(ii) Suckling, Patrick
Subject: FW: ANC compensation [SEC=UNCLASSIFIED]

Dom,

See email below from PM&C regarding management of the ANC compensation matter. I would propose to respond: "We do not believe that there are any legal impediments s 34(3)
s 34(3) for considering the reimbursement of ANC's reasonable costs, including, as necessary, corresponding with ANC and obtaining relevant legal advice."

s 22(1)(a)(ii)

Australia Network Secretariat
Department of Foreign Affairs and Trade
ph: s 22(1)(a)(ii)

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From: s 22(1)(a)(ii)
Sent: Monday, 16 January 2012 12:25 PM
To: s 22(1)(a)(ii)
Cc: Klerse, Glen
Subject: ANC compensation [SEC=UNCLASSIFIED]

s 22(1)(a)(ii) we have the letter now.
s 34(3), 42

Thanks
s 22(1)(a)(ii)

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 17 January 2012 10:04 AM
To: 'Angelos.Frangopoulos'
Cc: senator.conroy@aph.gov.au; Australia Network Tender
Subject: Australia Network [SEC=IN-CONFIDENCE:LEGAL]
Attachments: Australia Network_response to ANC letter of 23 Dec re claim verification.pdf; Australia Network_response to ANC letter of 23 Dec re ANC tender.pdf

Dear Mr Frangopoulos,

Please find attached responses to your letters of 23 December 2011.

Regards,
s 22(1)(a)(ii)

Australia Network Secretariat
Department of Foreign Affairs and Trade
ph: s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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Australian Government

Department of Foreign Affairs and Trade

File Number: 11/12733

17 January 2012

Mr A Frangopoulos
Chief Executive Officer
Australian News Channel Pty Ltd

Without Prejudice

Dear Mr Frangopoulos

We refer to your letter of 23 December 2011 providing a redacted spreadsheet itemising expenses incurred by ANC as a result of its participation in the now terminated AN tender process.

s 22(1)(a)(ii)

You will appreciate that there are governance requirements before the Australian Government can agree to a compensation of the magnitude sought. These require that any proposed offer of compensation meet 'reasonableness' requirements.

s 22(1)(a)(ii)

To enable proper assessment of your claim and compliance with applicable governance requirements, we again invite you to make available a folder of supporting documentation, including copies of relevant source material or other supporting documentation for each of the itemised categories. If you require confidentiality undertakings to be signed by persons reviewing such material this can be considered.

As previously advised the earlier you are able to provide all relevant supporting material the sooner a Commonwealth response to your claim will be provided.

Yours sincerely

s 22(1)(a)(ii)

Australia Network Secretariat

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 24 January 2012 4:32 PM
To: s 22(1)(a)(ii)
Cc: Cox, Greg (Greg.Cox@dbcde.gov.au); Pelling, Simon (Simon.Pelling@dbcde.gov.au); Drabsch, Shaun (Shaun.Drabsch@dbcde.gov.au); Philippa.Lynch@pmc.gov.au; Taylor, Marie; Suckling, Patrick; Trindade, Dominic; s 22(1)(a)(ii)
s 22(1)(a)(ii)

Subject: FW: Australia Network tender - claim by Australian News Channel - letter of advice [SFC=IN-CONFIDENCE:LEGAL]
Attachments: s 22(1)(a)(ii)

s 22(1)(a)(ii)

As foreshadowed, please find attached the AGS advice regarding the ANC claim for recoupment of its costs of participating in the Australia Network tender process.

s 22(1)(a)(ii)

Australia Network Secretariat
Department of Foreign Affairs and Trade
ph s 22(1)(a)(ii)

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s 22(1)(a)(ii)

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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From: s 22(1)(a)(ii)
Sent: Thursday, 9 February 2012 5:00 PM
To: Cox, Greg (Greg.Cox@dbcde.gov.au); Pelling, Simon (Simon.Pelling@dbcde.gov.au); Drabsch, Shaun (Shaun.Drabsch@dbcde.gov.au); Philippa.Lynch@pmc.gov.au; 'Taylor, Marie'; Suckling, Patrick; Trindade, Dominic; s 22(1)(a)(ii)
s 22(1)(a)(ii) s 22(1)(a)(ii)
s 22(1)(a)(ii) s 22(1)(a)(ii)
s 22(1)(a)(ii) Bird, Gillian
Subject: FW: Australia Network Tender - Letter from Australian News Channel Pty Ltd [SEC=IN-CONFIDENCE:LEGAL]
Attachments: s 22(1)(a)(ii)

Colleagues,

Please note latest correspondence from Mr Frangopoulos (ANC).

s 22(1)(a)(ii)
Australia Network Secretariat
Department of Foreign Affairs and Trade
ph s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 14 February 2012 5:49 PM
To: s 22(1)(a)(ii)
Cc: Greg.Cox@dbcde.gov.au; Simon.Pelling@dbcde.gov.au; Shaun.Drabsch@dbcde.gov.au; Philippa.Lynch@pmc.gov.au; Taylor, Marie; Suckling, Patrick; Trindade, Dominic; s 22(1)(a)(ii) s 22(1)(a)(ii) Bird, Gillian
Subject: RE: Australia Network Tender [SEC=IN-CONFIDENCE:LEGAL]

Thanks s 22(1)(a)(ii)

I am reviewing the folder of material provided by ANC last week and will be able to provide some commentary and recommendations on quantum and suggested negotiation strategy in the next few days.
s 42

s 22(1)(a)(ii)

Regards,
s 22(1)(a)(ii)

Senior Executive Lawyer
Australian Government Solicitor
T s 22(1)(a)(ii) F s 22(1)(a)(ii) M s 22(1)(a)(ii)
s 22(1)(a)(ii)
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s 22(1)(a)(ii)

s 22(1)(a)(ii)

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Australian Government

Department of Foreign Affairs and Trade

File Number: 11/12733

16 March 2012

Mr A Frangopoulos
Chief Executive Officer
Australian News Channel Pty Ltd
Locked Bag 918
NORTH SYDNEY NSW 2059

WITHOUT PREJUDICE

Dear Dr Frangopoulos

Australia Network Tender

We refer to your conversation with the writer and Mr Trindade on 15 March 2012.

As indicated in that conversation the Commonwealth wishes to resolve ANC's costs claim in relation to the costs of participation in the Australian Network Tender.

In your letter of 9 February 2012 you enclosed a statutory declaration, three tables of ANC's costs claimed and a bundle of redacted invoices. We have reviewed that material. Based on that material we anticipate that s 34(3) for the Commonwealth to reimburse ANC an amount of s 45

s 45

s 45 we have set out below a number of areas where clarification of information already provided is requested. In the event that such information is available we anticipate a higher settlement offer could be made.

Accordingly, to the extent you are able, we invite you to provide the additional information / clarification requested so that negotiations can proceed and, we trust, be resolved in the near future.

Our suggestion is that the additional information be provided by way of a further statutory declaration from you addressing the following matters:

s 22(1)(a)(ii)

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We look forward to receiving your reply.

Yours sincerely

s 22(1)(a)(ii)

Australia Network Secretariat

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s 22(1)(a)(ii)

From: Trindade, Dominic
Sent: Monday, 19 March 2012 10:19 AM
To: s 22(1)(a)(ii)
Cc: s 22(1)(a)(ii)
Subject: Australia Network Tender: Australian News Channel: Claim for Costs [SEC=IN-CONFIDENCE:LEGAL]

WITHOUT PREJUDICE

s 22(1)(a)(ii)

Dears 22(1)(a)(ii)

s 22(1)(a)(ii)

s 45

s 34(3)

I will keep you closely informed of progress.

Dominic Trindade
Legal Adviser and Assistant Secretary
Domestic Legal Branch
Department of Foreign Affairs and Trade

+612 626 3121 (direct)
+61 (0)41 6261800 (mobile)

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s 22(1)(a)(ii)

From: Trindade, Dominic
Sent: Tuesday, 20 March 2012 2:06 PM
To: s 22(1)(a)(ii)
Cc: Lynch, Philippa; Taylor, Marie; Kierse, Glen; Spence, Pip; s 22(1)(a)(ii) s 22(1)(a)(ii) s 22(1)(a)(ii)
Subject: RE: Australia Network Tender - letter re proposed settlement [SEC=IN-CONFIDENCE:LEGAL]

Troy

Yes. The settlement, as supported by AGS advice, s 45 Settlement on these terms is within legal principle and practice – i.e. complies with the LSDs.

Dominic

From: s 22(1)(a)(ii)
Sent: Tuesday, 20 March 2012 1:58 PM
To: Trindade, Dominic
Cc: Lynch, Philippa; Taylor, Marie; Kierse, Glen; Spence, Pip; s 22(1)(a)(ii) s 22(1)(a)(ii)
Subject: RE: Australia Network Tender - letter re proposed settlement [SEC=IN-CONFIDENCE:LEGAL]

Thanks Dominic – does that mean the AGS advice s 42
s 42

From: Trindade, Dominic [mailto:Dominic.Trindade@dfat.gov.au]
Sent: Tuesday, 20 March 2012 1:48 PM
To: s 22(1)(a)(ii)
Cc: Lynch, Philippa; Taylor, Marie; Kierse, Glen; Spence, Pip; s 22(1)(a)(ii) s 22(1)(a)(ii)
Subject: RE: Australia Network Tender - letter re proposed settlement [SEC=IN-CONFIDENCE:LEGAL]

Troy

ANC will provide a deed of release as part of settlement, but not before.

s 45

s 45

s 45 We would expect to go through this with ANC and/or their lawyers once we agree on the settlement and as part of the finalisation of the deed of settlement.

Dominic

From: s 22(1)(a)(ii)
Sent: Tuesday, 20 March 2012 1:31 PM
To: Trindade, Dominic
Cc: Lynch, Philippa; Taylor, Marie; Kierse, Glen; Spence, Pip; s 22(1)(a)(ii)
Subject: RE: Australia Network Tender - letter re proposed settlement [SEC=IN-CONFIDENCE:LEGAL]

Thanks Dominic – noted.

Can you confirm that as part of the settlement offer, ANC have provided a full release to the Commonwealth in respect of all claims relating to the AN tender process?

Also, can you provide an estimation of the GST amounts referred to in the draft letter?

From: Trindade, Dominic [mailto:Dominic.Trindade@dfat.gov.au]
Sent: Tuesday, 20 March 2012 1:10 PM
To: s 22(1)(a)(ii)
Subject: FW: Australia Network Tender - letter re proposed settlement [SEC=IN-CONFIDENCE:LEGAL]

s 22(1)(a)(ii)

Please see attached below AGS advice. s 34(3)
s 34(3)

Dominic

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Wednesday, 21 March 2012 8:07 AM
To: shaun.drabsch@dbcde.gov.au; Trindade, Dominic
Cc: s 22(1)(a)(ii)
Subject: s 34(3) [SEC=UNCLASSIFIED]

Importance: High

Shaun, Dominic

As per phone message for Dominic.

s 34(3)

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cheers
s 34(3)

s 22(1)(a)(ii)

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s 34(3)

REDACTED

s 22(1)(a)(ii)

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From: s 22(1)(a)(ii)
Sent: Wednesday, 21 March 2012 10:21 AM
To: Cameron, Gemma
Cc: s 22(1)(a)(ii) Minogue, Matt; Richards, Janean; Tracey-Patte, Melissa; s 22(1)(a)(ii) Trindade, Dominic
Subject: Australia Network Tender - claim by Australia News Channel Pty Limited - urgent matter [SEC=IN-CONFIDENCE:LEGAL]
Attachments: Ltr to DFAT re ANC 18 Mar 2012.pdf

Dear Gemma,

Please see completed template below as requested. I also attach our letter of advice to DFAT dated 18 March 2012 which summarises the matter and the basis for our view that the proposed settlement is in accordance with legal principle and practice.

Although this matter was the subject of earlier notifications to OLSC it was only late last week that the question of which agency was to be the lead agency for conducting the negotiations with the claimant, Australian News Channel Pty Limited, was resolved and the manner in which it was contemplated settlement would occur agreed (i.e. as a Legal Services Directions payments 42 s 34(3)
s 34(3)
s 34(3)

s 22(1)(a)(ii)

Regards,
s 22(1)(a)(ii)

s 22(1)(a)(ii)
Senior Executive Lawyer
Australian Government Solicitor
T s 22(1)(a)(ii) F s 22(1)(a)(ii) M s 22(1)(a)(ii)
s 22(1)(a)(ii)
Find out more about AGS at http://www.ags.gov.au

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Claim by Australia News Channel Pty Limited in relation to Australia Network tender process

DFAT requests the Attorney-General's approval, pursuant to paragraph 3.2 of the *Legal Services Directions 2005* (the Directions), of a proposal to settle the claim by Australia News Channel Pty Limited (ANC) for compensation arising from the Australian Government's decision on 7 November 2011 to terminate the Australia Network tender process on public interest grounds, for an amount s 45
s 45 The claim is regarded as 'significant' for the purposes of paragraph 3 of the Directions.

Background

s 45

s 42

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s 42

s 34(3)

Settlement terms

s 45

In accordance with Legal Practice and Principle

By letter dated 18 March 2012 AGS confirmed that,whilst high, a settlement as proposed was in accordance with legal principle and practice in view of the risks and potential costs of litigation s 42

s 42

s 34(3)

Outline of any prior settlement offers/counter offers

s 45

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s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Wednesday, 21 March 2012 1:38 PM
To: Trindade, Dominic
Cc: Leon, Renee; Lynch, Philippa; Kierse, Glen; s 22(1)(a)(ii) Taylor, Marie; Molloy, Kathryn; s 22(1)(a)(ii) Spence, Pip; Angus, Chris; Forbes, Claire
Subject: FW: ANC reimbursement - s 34(3) [SEC=IN-CONFIDENCE:LEGAL]
Attachments: 120321 Signed letter s 34(3) ANC Settlement.pdf

Dominic,

Please see attached signed letter from s 34(3)

Cheers,
s 22(1)(a)(ii)

s 22(1)(a)(ii)
Communications Policy
Industry, Infrastructure & Environment Division
Department of the Prime Minister and Cabinet
P: s 22(1)(a)(ii) | E: s 22(1)(a)(ii)

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From: Trindade, Dominic [mailto:Dominic.Trindade@dfat.gov.au]
Sent: Thursday, 22 March 2012 1:15 PM
To: Drabsch, Shaun
Cc: s 22(1)(a)(ii)
Subject: RE: Letter re settlement [SEC=IN-CONFIDENCE:LEGAL]

Shaun

I have conveyed the offer to ANC's lawyers, by phone and e-mail and am awaiting a response.

Dominic

From: Drabsch, Shaun [mailto:Shaun.Drabsch@dbcde.gov.au]
Sent: Thursday, 22 March 2012 12:49 PM
To: Trindade, Dominic
Subject: FW: Letter re settlement [SEC=IN-CONFIDENCE:LEGAL]

s 34(3)

thanks

Shaun

Shaun Drabsch

Chief of Staff

Office of Senator Stephen Conroy
Deputy Leader of the Government in the Senate
Minister for Broadband, Communications and the Digital Economy

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(03) 9650 1188
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M : 0417708393
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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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From: Trindade, Dominic
Sent: Thursday, 22 March 2012 1:12 PM
To: s 22(1)(a)(ii)
Cc:
Subject: Australia Network: Claims by Australian News Channel (ANC) [SEC=UNCLASSIFIED]

WITHOUT PREJUDICE

AUSTRALIA NETWORK: CLAIMS BY AUSTRALIAN NEWS CHANNEL (ANC)

Dear s 22(1)(a)(ii)

I refer to our previous discussions and to our telephone conversation this afternoon. I confirm that I am authorised by the Commonwealth to agree to a settlement of this matter on the basis of payment to ANC s 45 s 45 subject to a deed of release and settlement. As discussed, we would look to settle as quickly as possible. I should be grateful for your advice that you client can agree to this settlement. Should your client agree, I should also be grateful for your draft deed of settelement for our consideration, s 45 s 45 I would also seek your advice on the appropriate account for payment.

Kind regards

Dominic Trindade

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s 22(1)(a)(ii)

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From: Trindade, Dominic
Sent: Friday, 23 March 2012 12:14 PM
To: s 22(1)(a)(ii)
Cc:
Subject: RE: Australia Network: Claims by Australian News Channel (ANC) [SEC=UNCLASSIFIED]
Attachments: ANC Deed of Settlement_signed.pdf

Dear s 22(1)(a)(ii)

Thank you for your email of yesterday attaching a Deed of Settlement and Release signed by two Directors of the Australian News Channel Pty Ltd.

I confirm that payment of the Settlement Amount has been made by DFAT to ANC's bank account this morning. We have requested urgent clearance of the funds by the bank and been advised that this should occur by 1.00pm today. Could you please have your client confirm its receipt of payment in due course.

Attached is the Deed of Settlement and Release, signed by the Department's Chief Financial Officer and dated today. We have not sought any amendment of the Deed, however, for the avoidance of doubt, I would record our understanding of the following provisions of the Deed:

s 45

s 45

I believe that this now completes settlement of this matter. I should like to thank you for your cooperation in achieving this.

Kind regards

Dominic Trindade
Legal Adviser and Assistant Secretary
Department of Foreign Affairs and Trade

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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From: Trindade, Dominic [mailto:Dominic.Trindade@dfat.gov.au]
Sent: Thursday, 22 March 2012 1:12 PM
To: s 22(1)(a)(ii)
Ccs
Subject: Australia Network: Claims by Australian News Channel (ANC) [SEC=UNCLASSIFIED]

WITHOUT PREJUDICE

AUSTRALIA NETWORK: CLAIMS BY AUSTRALIAN NEWS CHANNEL (ANC)

Dear s 22(1)(a)(ii)

I refer to our previous discussions and to our telephone conversation this afternoon. I confirm that I am authorised by the Commonwealth to agree to a settlement of this matter on the basis of payment to ANC s 45
s 45 subject to a deed of release and settlement. As discussed, we would look to settle as quickly as possible. I should be grateful for your advice that you client can agree to this settlement. Should your client agree, I should also be grateful for your draft deed of settelement for our consideration, as well as further calculation of the applicable GST. I would also seek your advice on the appropriate account for payment.

Kind regards

Dominic Trindade

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Pages 101-109 have been exempted in full under sections 34(3) of the *Freedom of Information Act 1982*

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s 22(1)(a)(ii)

From: Trindade, Dominic
Sent: Friday, 23 March 2012 5:58 PM
To: Shaun.Drabsch@dbcde.gov.au; simon.pelling@dbcde.gov.au; greg.cox@dbcde.gov.au; philippa.lynch@pmc.gov.au; s 22(1)(a)(ii) david.martine@finance.gov.au; s 22(1)(a)(ii) matt.minogue@ag.gov.au; s 22(1)(a)(ii)
Cc: Bird, Gillian; Suckling, Patrick; s 22(1)(a)(ii) Rowe, Richard; s Larsen, James; s 22(1)(a)(ii) Willis, Max; Thorpe, Ann
Subject: Australia Network: Settlement of Claims by Australian News Channel Pty Ltd (ANC) [SEC=IN-CONFIDENCE:LEGAL]

Dear all

I confirm that this afternoon settlement of ANC's claims regarding the Australia Network tender was finalised, with the execution of deed of settlement and payment of a settlement amount s 34(3) It is a full and final settlement of all claims.

Under the Deed, the terms of settlement are to remain confidential to the parties (subject to any disclosure required by law, eg under subpoena or through Parliamentary enquiries or processes). This means that while it can be disclosed that a settlement has been reached, we cannot make public the terms, including the settlement amount.

Thank you all for your assistance in reaching this settlement.

Dominic Trindade
Legal Adviser and Assistant Secretary
Domestic Legal Branch

Estimates May 2012

AUSTRALIA NETWORK

Questions regarding the Australia Network tender process

s 22(1)(a)(ii)

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s 22 (1)(a)(ii)

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If asked: Has DFAT paid any compensation to Sky News and, if so, what was the amount?

- The Australian News Channel (ANC) sought reimbursement of the costs it incurred from participating in the Australia Network tender process.
- Senator Conroy had previously publicly indicated that the Government would consider a request by ANC to pay its reasonable, verifiable costs incurred.
- The Department of Foreign Affairs and Trade has managed the Government's process for considering ANC's claim.
- A settlement has been reached between the Commonwealth and ANC
  - As the terms of the settlement with ANC are confidential, I am unable to comment further.

s 22(1)(a)(ii)

s 22 (1)(a)(ii)

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Question No. 119

Has the Government been approached by Sky seeking compensation as a result of the tender process not proceeding? Has compensation been offered? Which Department is responsible in terms of any compensation claims?

Answer

The Australian News Channel (ANC) sought reimbursement of the costs it incurred from participating in the Australia Network tender process. The Department of Foreign Affairs and Trade has managed the Government's process for considering ANC's claim. A settlement has been reached between the Commonwealth and ANC. As the terms of the settlement with ANC are

confidential, we are unable to comment further.

s 22(1)(a)(ii)

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