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Order F11-25

BRITISH COLUMBIA LOTTERY CORPORATION

Elizabeth Denham, Information and Privacy Commissioner

August 25, 2011

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Summary: A journalist asked BCLC for its online sales figures sorted by the first three characters of BC's postal codes. BCLC refused saying disclosure of the information could harm its financial interests and benefit its competitors in the "grey market". The Commissioner concluded that BCLC had not established that the sales figures had any current or potential value under s. 17(1)(b). Further, BCLC's arguments that disclosing the information would cause undue gain or loss pursuant to s. 17(1)(d) were speculative and therefore fell short of demonstrating the harm claimed could reasonably be expected to occur.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, ss. 17(1)(b) and (d).

Authorities Considered: **B.C.:** Order F11-12, [2011] B.C.I.P.C.D. No. 15; Order 02-38, [2002] B.C.I.P.C.D. No. 38; Order F07-15, [2007] B.C.I.P.C.D. No. 21; Order 02-50, [2002] B.C.I.P.C.D. No. 51; Order F08-22, [2008] B.C.I.P.C.D. No. 40; Order F07-06, [2007] B.C.I.P.C.D. No. 8; Order 00-37, [2000] B.C.I.P.C.D. No. 40; Order 00-39, [2000] B.C.I.P.C.D. No. 42; Order F08-03, [2008] B.C.I.P.C.D. No. 6; Order 03-11, [2003] B.C.I.P.C.D. No. 6; Order 00-41, [2000] B.C.I.P.C.D. No. 44; Order 00-10, [2000] B.C.I.P.C.D. No. 22; Order F07-04, [2007] B.C.I.P.C.D. No. 6. **Ont.:** Order PO-2941, [2010] O.I.P.C. No. 183.

INTRODUCTION

[1] The Lottery Corporation runs an online gaming site, PlayNow.com, which offers a number of lottery and casino products for purchase online. The applicant, who is a journalist for *The Vancouver Sun*, wishes to see if there is a correlation between online

sales of lottery products and consumers' residential locations. He requested the sales figures for the online purchase of lottery products ("sales figures") for 2008-2009, sorted by BC's Forward Sortation Areas ("FSA"), which represent the first three characters of BC's postal codes.

[2] The Lottery Corporation refused access, saying that disclosure of these sales figures could harm its financial interests and benefit its competitors in the "grey market". I have concluded that the Lottery Corporation has not shown that the harm it foresees on disclosure could reasonably be expected to occur.

ISSUE

[3] The issue before me is whether disclosure of the sales figures could reasonably be expected to harm the financial interests of the government of British Columbia or of the Lottery Corporation, because one or both of the following applies:

- the sales figures are financial or commercial information that has, or could have, monetary value for the Lottery Corporation under s. 17(1)(b) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA")
- disclosure of the sales figures could reasonably be expected to result in undue loss to the Lottery Corporation or undue gain to its competitors under s. 17(1)(d) of FIPPA

DISCUSSION

[4] **Background**—Upon receiving the journalist's request, the Lottery Corporation created a four-page record containing the requested sale figures from data in its "business intelligence data warehouse", which contains data the Lottery Corporation compiles in the course of its PlayNow.com business operations.

[5] The record has two columns:

- a list of the FSAs in BC; the first character identifies the province; the second and third identify the specific area in a city, town or other geographical location, with more populated areas having more FSAs; for example, the City of Chilliwack has three FSAs while the City of Vancouver has more than 60
- a list of dollar figures representing the total sales figures for online purchases of "lottery products" for 2008-09 by registered account holders residing in each FSA

[6] The Lottery Corporation denied access to the sales figures under ss. 17(1)(b) and (d) of FIPPA, saying the information is commercially valuable and its use by the Lottery

Corporation's competitors might lead to the loss of revenue to the Lottery Corporation. The Lottery Corporation also said disclosure could harm the personal privacy of its customers under s. 22(1) of FIPPA.

[7] The journalist requested a review of the Lottery Corporation's decision by this Office ("OIPC"). The Lottery Corporation later dropped the personal privacy exception, so this inquiry only deals with the question of financial harm to the Lottery Corporation and the Province.

The Lottery Corporation

[8] The Lottery Corporation is a Crown corporation which, under the authority of both the *Gaming Control Act* ("GCA") and the *Criminal Code*, conducts, manages and operates lottery gaming, casino gaming, commercial bingo gaming and eGaming in this province. The Lottery Corporation launched the PlayNow.com website in October 2004. Originally, PlayNow.com offered Sports Action games for purchase online, over time adding lottery games, interactive games, eBingo, casino games and "peer-to-peer online poker". A portion of the net income from the Lottery Corporation's gaming revenue flows to the BC government.

PlayNow.Com

[9] PlayNow.com is available only to players residing within British Columbia who, before they can purchase online products, must register online. This includes providing their home addresses and postal codes. Approximately 115,000 players were registered with PlayNow.com in the fiscal year 2008-09. This figure had risen to 140,000 in 2010.

[10] In 2010, PlayNow.com generated \$34 million in revenue for the Lottery Corporation, comprising 1% of its total revenue. The Lottery Corporation expects this figure to increase to 4% of its total revenue in 2014, for additional revenue of \$100 million.

[11] During 2008-09, PlayNow.com offered the following "lottery products" for online purchase:

- (a) Lottery tickets, including 6/49, BC 49 and Lotto Super 7, and the Extra game available for purchase with these tickets;
- (b) Sports Action;
- (c) Keno;
- (d) Pacific Hold'Em Poker, a monitor lottery game with poker theming;
- (e) eBingo; and
- (f) Interactive games.

[12] The Lottery Corporation uses a variety of marketing techniques to promote PlayNow.com: television, print and online advertising; VIP promotional events, newsletters, emails and other online marketing; and sports sponsorships.

[13] The Lottery Corporation has no legal competition within the province for online gaming products. However, PlayNow.com enables the Lottery Corporation to compete directly with dozens or even hundreds of offshore gambling websites, which it calls “grey market sites”.

“Grey market competitors”

[14] Grey market sites are largely unregulated and “cannot legally transact with Canadians”.¹ Nevertheless, grey market competitors accept wagers from BC residents and market lottery products to BC residents from servers in foreign jurisdictions. Most grey market sites will start with some kind of free products and then invite consumers to play for money.

[15] Grey market sites use a variety of marketing techniques to attract customers: banner and pop-up online advertisements; spam emails; television advertising during sports games; print advertisements; direct-to-consumer marketing; “in-person street intercepts”; door-to-door canvassing; windshield pamphlet drops; “mall intercepts”; telemarketing; “VIP promotional events” targeting a specific area; and targeted advertising, such as online marketing aimed at young professionals and advertisements in local newspapers aimed at retired people.

Preliminary Matters

Expert evidence

[16] The Lottery Corporation said it was submitting “expert opinion evidence” in support of its position, along with its other evidence. The Lottery Corporation argued that I should admit and give weight to what it calls expert evidence, “as it is logically probative of a number of the key issues engaged by s. 17 of *FIPPA*”.²

[17] In Order F11-12³, the Lottery Corporation asked that the adjudicator accept affidavits of two individuals as “expert evidence”. The adjudicator referred to s. 10 of the *Evidence Act* and then discussed the function of an “expert” in a setting such as this inquiry:

¹ Para. 17, Gray affidavit.

² Para. 27, the Lottery Corporation’s initial submission. The Lottery Corporation also referred to Decision F06-07, [2006] B.C.I.P.C.D. No. 26.

³ [2011] B.C.I.P.C.D. No. 15.

[16] In their text, *The Law of Evidence* (3rd ed.) (at p. 785), Sopinka, Lederman and Bryant describe the function of an expert in a judicial setting as being to provide the trial judge with a ready-made inference from proven facts since the technical or scientific nature of the subject matter is likely to be beyond the fact-finder's knowledge or expertise. Such evidence is admissible when the fact-finder is unable to draw an inference or to form a proper conclusion without the assistance of experts and the evidence is otherwise admissible at common law or under statute. ...

...

[18] While Commissioner Loukidelis accepted (in Decision F06-07) that the strict rules of evidence do not apply to expert evidence, he also said that this does not mean that "anything goes" in respect of such evidence. Although an administrative tribunal can accept such evidence, in doing so, it might well ask the purpose for which it is doing so and may wish to adopt a more cautious approach if, for example, the evidence is being tendered on the basis that it is beyond the ability of the decision-maker to understand unaided. [footnote omitted]

[18] The adjudicator accepted the first affidavit as admissible but not as "expert evidence" because the individual's opinions were not

... necessary for me to appreciate the underlying facts due to their technical nature. Similarly, in respect of his opinions on whether the Manual "has or is likely to have monetary value" or whether "in its entirety it derives independent economic value, actual or potential, from not being generally known by the public or other persons", I do not see the factual basis upon which Mr Rodrigues's opinions are based to be ones beyond my comprehension without an expert's assistance; nor do I feel ill-equipped to draw proper inferences from such facts.⁴

[19] The adjudicator also said that this individual's opinion on whether disclosure of the record in dispute could reasonably be likely to harm the financial or economic interests of either the Lottery Corporation or the Government of British Columbia", or "would result in harm or improper benefit" to third parties, to be the

... very questions of statutory interpretation that I am called upon to decide. Additionally, the brief opinions Mr Rodrigues gives in this regard are highly speculative and general in nature ...⁵

[20] The other individual's affidavit was accepted as admissible by the adjudicator, but she allowed only one part as "expert evidence" because most of his evidence did not offer an opinion and the part that did was general and speculative in nature.⁶

⁴ Para. 19, Order F11-12.

⁵ Para. 19, Order F11-12.

⁶ Para. 20, Order F11-12.

[21] In this case, the Lottery Corporation has submitted evidence from Paul Lauzon, Senior Vice President, Lottery and Gaming, Ipsos Reid. He has 20 years experience as a market research professional for a number of organizations and has been “one hundred per cent immersed in lottery and gaming research” in his 14 years with Ipsos Reid. He is responsible for accounts with lottery organizations and market research studies in several Canadian and American jurisdictions. Mr Lauzon was asked to provide a report on the following:

1. Please provide your opinion as to:
 - (a) whether the Information has, or is reasonably likely to have, monetary value; and
 - (b) whether the Information is competitively valuable information and, if so, to whom.
2. Please provide your opinion as to whether disclosure of the Information:
 - (a) could reasonably be expected to harm the financial or economic interests of either the British Columbia Lottery Corporation or the Government of British Columbia;
 - (b) could reasonably be expected to give competitive advantage to a third party or parties and, if so the nature of the competitive advantage;
 - (c) would help competitors to obtain market share in the business of online gaming; and/or
 - (d) would otherwise result in harm or improper benefit to a third party or parties.

[22] For reasons similar to those given by the adjudicator in Order F11-12, I consider Mr Lauzon’s evidence to be admissible but not as “expert evidence” because Mr Lauzon is providing an opinion on the precise matters that I am legally obliged to decide under ss. 17(1)(b) and (d). I would add that the evidence is also general and speculative in regard to the issue of reasonable expectation of harm under s. 17.

Journalist’s objection

[23] The journalist objected to the fact that the Lottery Corporation included comments on his initial submission in its initial submission, when it should properly have done so in its reply. The Lottery Corporation acknowledged that it had responded to the journalist’s initial submission in its own initial submission. It said it was not aware of any procedural rule prohibiting it from replying to the journalist’s initial submission in its own initial submission. It added that it did not intend to circumvent the OIPC’s procedures or violate

the journalist's rights to procedural fairness. It said it would not provide a further response and the journalist was satisfied with this.

[24] The OIPC's inquiry instructions do not specifically prohibit a party from replying to another party's initial submission in its own initial submission. They do however state that initial submissions are to address the issues in the notice of inquiry and that reply submissions may only respond to other participants' initial submissions.

[25] In any case, given that the journalist was satisfied with the Lottery Corporation's response to his objection, I need not consider it.

Late raising of public interest override

[26] The Lottery Corporation objected to the journalist raising the public interest override provision in FIPPA, s. 25, in his initial submission, saying it was not timely, not listed in the notice for this inquiry and also does not apply here. It said that s. 25 imposes a positive obligation on public bodies to disclose information in certain cases, where there is a compelling and urgent need for disclosure. There is no such need here, in the Lottery Corporation's view.

[27] I accept that the public may well be interested in having access to the sales figures in this case. There may even be a public interest in their disclosure. However, neither of these factors meets the test for s. 25.⁷ I am aware of no urgent and compelling reason for disclosure of the sales figures in issue here.

[28] I accept the journalist's statement that he was not aware he should have raised s. 25 earlier. Even if he had, however, for the reasons I give just above, I would have concluded that it does not apply here.

ANALYSIS

[29] **Harm to the Lottery Corporation's Financial Interests**—Sections 17(1)(a) to (f) of FIPPA are examples of types of information disclosure of which could reasonably be expected to result in harm to the financial or economic interests of a public body or the provincial government. In order for the Lottery Corporation to meet its burden of proof:

[17] ... there must be a confident and objective evidentiary basis for concluding that disclosure of information could reasonably be expected to result in harm under s. 17(1). Referring to language used by the Supreme Court of Canada in an access to information case, I have said, "there must be a clear and direct connection between the disclosure of specific information and the harm that is alleged."⁸

⁷ See, for example, Order 02-38, [2002] B.C.I.P.C.D. No. 38, at paras. 30-67.

⁸ Order F07-15, [2007] B.C.I.P.C.D. No. 21. See also Order 02-50, [2002] B.C.I.P.C.D. No. 51, paras. 124-137. See also, for example, Order F08-22, [2008] B.C.I.P.C.D. No. 40, at paras. 34-35.

[30] **Financial or Commercial Information of Monetary Value**—Section 17(1)(b) is engaged where three criteria are established:

- the information must fall into the category of “financial, commercial, scientific or technical” information
- the information must be owned by (“belong to”) the public body
- the information must either have or be reasonably likely to have monetary value

[31] There must also be an accompanying reasonable expectation of financial or economic harm to the public body or the Province.⁹

Information that “belongs” to the Lottery Corporation

[32] The Lottery Corporation’s evidence is that its employee generated the requested information from its data warehouse, which its staff maintain and update in the course of the Lottery Corporation’s PlayNow.com business. The Lottery Corporation referred me to an Ontario order which found that certain lottery sales figures were financial and commercial information belonging to the Ontario Lottery and Gaming Corporation.¹⁰ The applicant did not address this question.

[33] The adjudicator found in Order F11-12¹¹ that a policy and procedures manual which the Lottery Corporation staff had produced “belonged” to it.¹² Having regard for the evidence and past orders on this issue, I accept that the sales figures “belong” to the Lottery Corporation.

Financial information

[34] Information is “financial” if it concerns such things as profit and loss data, operating costs, or financial resources or arrangements.¹³ The Lottery Corporation argued that the requested information, “consumer transactions in the form of money paid by purchasers to the Lottery Corporation of lottery products”,¹⁴ is “financial information”. Again, the applicant did not deal with this issue.

⁹ See, for example, Order F07-06, [2007] B.C.I.P.C.D. No. 8, Order 00-37, [2000] B.C.I.P.C.D. No. 40, and Order 00-39, [2000] B.C.I.P.C.D. No. 42.

¹⁰ Order PO-2941, [2010] O.I.P.C. No. 183.

¹¹ [2011] B.C.I.P.C.D. No. 15.

¹² Order F11-12, [2011] B.C.I.P.C.D. No. 15, at para. 54.

¹³ Order F08-03, [2008] B.C.I.P.C.D. No. 6; Order 00-37.

¹⁴ Para. 59, the Lottery Corporation’s initial submission.

[35] I am satisfied that the information in question—dollar figures for the sales of lottery products—is “financial information”. Given this finding, I need not consider the Lottery Corporation’s arguments that it is also “commercial information”.

Monetary value

[36] Past orders have said that financial information of “monetary value entails the ... element of objectively ascertainable, independent monetary value for the purposes of the s. 17 harm test”.¹⁵ Thus information may have “monetary value” if a public body has attempted, or plans, to sell or licence the information, now or in the future.¹⁶ Information may also have “monetary value” if a competitor could exploit it to take market share away from the public body or to assess market size.¹⁷

[37] Of course, the Lottery Corporation does not argue that it wishes to sell the information, now or in the future—quite the opposite in fact. The Lottery Corporation’s main argument is that grey market competitors could exploit the information, which it says is competitively valuable, to take market share away from it.

[38] The Lottery Corporation’s evidence was that obtaining “comparable”, though “inferior”, data through surveys would cost “\$2 million retail” through surveys of 20,000 people.¹⁸ It argued that the sales figures therefore have a “monetary value” of \$2 million. However, the costs a public body or its competitor might incur in creating or compiling the same or similar information do not necessarily mean the information has “independent monetary value”.¹⁹

[39] I accept that the Lottery Corporation faces competition from “grey market competitors” who sell a variety of products using a number of marketing techniques. I also accept that its grey market competitors could use the sales figures, alone or in combination with publicly available sources (*e.g.*, census information, software maps of postal codes, neighbourhood and income profiles), to create “consumer profiles” of “high spending and potentially lucrative” consumers who are likely to gamble online.

[40] The Lottery Corporation has not however established that there is a market for such information. Nor, as the journalist argued, has the Lottery Corporation shown that its competitors have made any effort to target online gambling customers in BC by postal code nor how they could even do this, given that they operate from offshore websites. The fact that there are ways that competitors could use the information does not mean they seek it in order to “lure” the Lottery Corporation’s customers away nor that there is a market value for it. In any case, even if grey market competitors did find the

¹⁵ Order 00-39, [2000] B.C.I.P.C.D. No. 42, at p. 8. Former Commissioner Loukidelis made similar remarks in Order 00-37, at p. 3.

¹⁶ Order 03-11, [2003] B.C.I.P.C.D. No. 6; Order F07-06 and Order F11-12.

¹⁷ See for example, BC Order 00-37 and Ontario Order PO-2941, [2010] O.I.P.C. No. 183.

¹⁸ Lauzon report.

¹⁹ Order 00-39, at p. 8.

information useful or were interested in obtaining it, this is not enough to show that it has or is likely to have monetary value.²⁰

[41] The Lottery Corporation said that, from a marketing perspective, the sales figures are “significantly more valuable than data revealing the value of lottery products sold at retail outlets by FSA”, which it has released in the past.²¹ It relied on an Ontario order which found that information on sales of lottery products by retail location had “monetary value”.²² In that case, the adjudicator had evidence that there was a market for such information and that competitors of the Ontario Lottery and Gaming Corporation could exploit it. I do not have such evidence here.

[42] The Lottery Corporation’s evidence is that grey market competitors have many ways of generating income and spending profiles of consumers to determine where there are clusters of “high spending and potentially lucrative customers” that do not involve FSA-specific information. The Lottery Corporation argued that grey market competitors could use these details to target FSAs with high concentrations of potential consumer groups believed to be inclined to online gaming, and both high and low concentrations of PlayNow.com players. Rather than supporting an argument that grey market competitors could use the information to target individual FSAs, however, this suggests that grey market competitors could target potentially most or all FSAs. The Lottery Corporation has also not shown that grey market competitors attempt to target or advertise to consumers by FSA, even supposing they can and wish to do so.

[43] Moreover, a number of the methods the Lottery Corporation argues grey market competitors could use—door to door or windshield pamphlet drops and mall and in-person street intercepts—are labour-intensive. For that reason, they are likely not to be cost-effective. These techniques also do not necessarily involve specialized knowledge of the spending habits of a particular neighbourhood. Further, they are already available to grey market competitors, based on their own research and using publicly available census and other data on incomes and spending habits. I am not persuaded that the sales figures in issue here would add materially to the methods already available to grey market competitors.

[44] In any case, as the journalist argued, grey market competitors’ customer data bases, if they require consumers to register with their credit cards, likely contain billing addresses with postal codes. Thus, if grey market competitors do wish to compile sales information on lottery products by FSA, they can likely draw on their own information.

[45] The Lottery Corporation also expresses concern that grey market competitors have an advantage because they are unregulated. The Lottery Corporation argues that its competitors are thus able to use “unfair marketing tactics, strategies, and incentives”,

²⁰ Order 00-41, [2000] B.C.I.P.C.D. No. 44, at p.5.

²¹ Para. 64, the Lottery Corporation’s initial submission.

²² Ontario Order PO-2941, [2010] O.I.P.C. No. 183.

such as higher bonuses and retention strategies, to attract and retain consumers. The Lottery Corporation said it is limited in the bonuses and incentives it can offer but did not say why. It seems to me however that any competitive advantage grey market competitors have in being able to offer higher bonuses is independent of any use they might make of the sales figures.

[46] The Lottery Corporation also said that its staff use the data in its data warehouse “to assist with analyzing the Lottery Corporation’s product performance, marketing success and player participation and preferences”.²³ In addition, the information has a current monetary value to the Lottery Corporation in

... capturing the revenue data, or profitability information which PlayNow.com generates for the Lottery Corporation. Also, product sales data can be compared with projected budget for the product.²⁴

[47] The Lottery Corporation did not however explain how one might accomplish these things with the sales figures nor, if one could, how this could reasonably be expected to harm its financial interests or those of the Province. These things are not clear from the material before me.

[48] In conclusion, the Lottery Corporation’s arguments and evidence are speculative, in my view, and do not suffice to establish that the sales figures have any current or potential “monetary value” for the purposes of s. 17(1)(b). The Lottery Corporation has not met its burden under s. 57(1) of FIPPA of showing that the journalist does not have a right of access to the sales figures under s. 17(1)(b). I therefore find that this exception does not apply to the sales figures.

[49] **Undue loss or gain**—Section 17(1)(d) requires the Lottery Corporation to demonstrate harm in the sense of “undue financial loss or gain to a third party”. The meaning of “undue financial loss or gain” has often been considered. “Undue” is defined in the Oxford English Dictionary as “excessive or disproportionate”. Its ordinary meaning includes something that is unwarranted, inappropriate or improper.²⁵

[50] The Lottery Corporation argued that disclosure of the sales figures would give grey market competitors “competitively valuable information” not otherwise available to them. This would give grey market competitors an advantage in that they would be in a “strong position” to capture market share away from the Lottery Corporation. These competitors would also not have to incur a \$2 million cost in acquiring similar but inferior data through surveys of 20,000 people, effectively giving them “something for nothing”. The Lottery Corporation said that even a “small inroad” on the Lottery Corporation’s market share

²³ Asgeirson affidavit.

²⁴ Page 23, the Lottery Corporation’s initial submission and Asgeirson affidavit.

²⁵ Order 00-41, [2000] B.C.I.P.C.D. No. 44. Order 00-10, [2000] B.C.I.P.C.D. No. 22. Order F07-04, [2007] B.C.I.P.C.D. No. 6.

(which it did not quantify) would be significant, given the revenues PlayNow.com currently generates. The resulting financial gain to the grey market competitors—and corresponding financial loss to the Lottery Corporation and the province in the form of lost revenue—would thus be “undue”.

[51] The Lottery Corporation did not tell me what its own costs were to produce the sales figures. Moreover, I have already said that the Lottery Corporation has not persuaded me that its grey market competitors seek or value the sales figures in issue, not least because they have other, cheaper methods at their disposal if they wish to compile similar information. Nor did the Lottery Corporation establish that grey market competitors could use the information to make “even a small inroad” into the Lottery Corporation’s market share.

[52] In any case, the Lottery Corporation’s evidence is that the number of registered PlayNow.com customers increased from 115,000 in 2008/2009 to 140,000 in 2010 and that its PlayNow.com revenues are projected to triple over the next few years, from \$34 million in 2010, increasing at 11% annually, to \$100 million a year by 2014. This suggests that the Lottery Corporation is successfully competing with grey market sites and steadily taking market share away from them, not losing it. Thus, including in light of its monopoly on legal gambling in BC, I have difficulty understanding how any “undue” revenue loss to the Lottery Corporation or “undue gain” to its grey market competitors might reasonably be expected to occur on disclosure of these two-year old figures.

[53] The Lottery Corporation also did not say what it considered a “small inroad” into its market share to be. Nor did it provide me with any assistance in determining the extent of any financial harm that any such “small inroad” could reasonably be expected to cause.

[54] I am aware that former Commissioner Loukidelis said that it is not always possible or necessary to quantify harm in such cases.²⁶ However, when he said this, he had evidence indicating that even a 1% loss of market share to the brewing companies whose aggregate sales figures were in issue could amount to millions of dollars.²⁷ The Lottery Corporation has not provided me with any such figures here or even a general idea of how much harm might result.

[55] As above, the Lottery Corporation’s arguments and evidence on the question of undue gain or loss are speculative. It has not met its burden of proof on this issue either. I therefore find that s. 17(1)(d) does not apply to the sales figures.

²⁶ Order 00-10, [2000] B.C.I.P.C.D. No. 11, p.17.

²⁷ Order 00-10, p. 17.

CONCLUSION

[56] For reasons given above, I find that ss. 17(1)(b) and (d) do not apply to the sales figures. Under s. 58 of FIPPA, I require the Lottery Corporation to give the journalist access to this information within 30 days of the date of this order, as FIPPA defines “day”, that is, on or before October 5, 2011 and, concurrently, to copy me on its cover letter to the journalist.

[57] Given my findings on s. 17, I need not consider the Lottery Corporation’s argument that it was not reasonable to sever the record.

August 25, 2011

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

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