



**Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario**

FINAL ORDER PO-2901-F

Appeal PA-050250-2

Ministry of Finance



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BACKGROUND AND NATURE OF THE APPEAL:

This order disposes of the remaining issues arising from my interim decision in Order PO-2793-I.

The appellant filed a five-part request with the Ministry of Finance (the Ministry) and the Financial Services Commission of Ontario (FSCO) under the *Freedom of Information and Protection of Privacy Act* (the *Act*) for information relating to automobile insurance. The request was for communications, briefing notes, meeting agendas, reports and other records involving FSCO and ministerial officials and identified insurance companies or their trade association representatives on various identified automobile insurance issues.

The Ministry located 423 records consisting of a total of 1845 pages that were responsive to the request. After notifying various affected parties, the Ministry subsequently issued two decision letters in which it granted partial access to the responsive records. The remaining records or parts of records were withheld pursuant to the following exemptions in the *Act*: sections 12(1) (cabinet documents), 13(1) (advice to government), 17(1) (third party information), 18(1) (economic and other interests), 19 (solicitor-client privilege), and 21(1) (personal privacy).

The appellant appealed the Ministry's decision to this office. Shortly after the appellant filed his appeal, the Ministry issued a third decision letter disclosing additional records, as none of the third parties had appealed the Ministry's decision to disclose certain identified records.

During mediation, the appellant expressed his view that the public interest override at section 23 of the *Act* applies in the circumstances of this appeal. This appeal was not settled in mediation and was transferred to adjudication.

In the course of the inquiry process, the Ministry indicated that it had "reconsidered its decision in a number of cases and agreed to release a significant number of additional records." It also issued a new index of records to the appellant.

During the inquiry process, representations were received from the Ministry, the appellant, and a number of affected parties. Additional details regarding the request, mediation, and the inquiry stage of this appeal are set out in Interim Order PO-2793-I.

Interim Order PO-2793-I

I issued Interim Order PO-2793-I in this appeal. In that order, I found that certain identified records qualified for exemption under the *Act*, and that other records did not, and I ordered that those records be disclosed. However, in that order I also deferred my decision regarding certain records for which section 17(1) of the *Act* (third party information) was claimed, due to notification issues. The relevant portion of that order reads as follows:

THIRD PARTY RECORDS – NOTIFICATION ISSUES

Records for which section 17(1) was raised after further disclosure

As identified above, in its representations, the Ministry stated that it had “reconsidered its decision in a number of cases and agreed to release a significant number of additional records.” It also issued a new index of records to the appellant.

In providing further disclosure during its representations, however, the Ministry has in some instances identified that portions of these newly-disclosed records contain third party information and would qualify for exemption under section 17(1). In most of those instances, the Ministry has disclosed the records except for the portions covered by section 17(1). However, the third parties to whom the information relates have not had the opportunity to provide representations on those portions of records.

These records or portions of records are the following:

FSCO-CEO: Records 4 and 7 (in part)

FSCO-AID: Records 40 (in part), 101 (in part), 109 (in part), 117 (in part), 119 (in part), 131, 137 (in part) 139 (in part), 144, 148 (in part) and 149 (in part)

Ministry Office: Records 3, 43 (in part) and 117

In the circumstances, and due to the mandatory nature of the section 17(1) exemption, I will be notifying the affected parties whose information may be contained in these records or portions of records, prior to making a final determination on the application of section 17(1) to those records.

Records relating to one identified affected party (affected party C)

There are a number of records which the Ministry has claimed qualify for exemption under section 17(1). Many of those records were disclosed in the course of this appeal. A number of the records which remain at issue are addressed below under the section entitled “Third party information.” In the case of many of these records, the affected third parties were notified and provided representations on the application of the exemptions. One of the third parties (affected party C), was notified of the request at the time of the request and consented to the disclosure of certain records, but not to the disclosure of other records. This affected party, like a number of other affected parties, was provided with a Notice of Inquiry identifying the facts and issues in this appeal, and was invited to provide representations. Affected party C provided representations on a number of identified records; however, in its representations it also stated:

The above comments [representations] are applicable to all of the [affected party C] records that were referred to in [the adjudicator's] letter, namely: [FSCO-AID Records 56, 125, 126, 155, 156, 158 and 159)

I have carefully reviewed the Notice of Inquiry and letter sent by the previous adjudicator. Contrary to affected party C's position, the "adjudicator's letter" did not restrict the records to which affected party C was invited to make representations. In these circumstances, ordinarily, I would proceed to determine access to the remaining records based on affected party C's general representations. However, as identified above, in the course of processing this appeal, the Ministry in its representations changed its position with respect to a few of the records at issue, and determined that they qualified for exemption under section 17(1) and not under another exemption previously claimed. Many of these records also relate to affected party C.

In the circumstances, I have decided to issue this interim order and to provide affected party C with the opportunity to provide representations on the possible application of section 17(1) to records relating to it which it did not refer to in its representations. Accordingly, I will also be seeking affected party C's representations on the possible application of section 17(1) to the following records: FSCO-CEO records 1 and 33, Ministry's Office (third party records) 20, 21, 22, 23, 25, 26, 28, 44, 46, 48, 50-52, 56-59, 61-63, 66, 68, 69, 73, 76, 77, 80, 85 and 87.

The Ministry brought an application for judicial review of my decision in Interim Order PO-2793-I, on the basis that I incorrectly interpreted and applied sections 13(1), 17(1) and 18(1)(e) of the *Act*.

On November 16, 2009 I granted a stay of Order 2793-I, pending disposition of the Ministry's judicial review application before the Divisional Court. Since all of the records which I ordered to be disclosed in Interim Order PO-2793-I involved records which I found did not qualify for exemption under sections 13(1), 17(1) and 18(1)(e) of the *Act*, they were all covered by my stay decision. However, with respect to the question of whether I would be proceeding with the final decision in this appeal, in the stay decision I also stated "... I intend to proceed with the appeal by inviting representations from the affected parties identified in Interim Order PO-2793-I."

The Supplementary Notice of Inquiry

As a result of my decision in Interim Order PO-2793-I set out above, I decided to send the Supplementary Notice of Inquiry to three affected parties.

The three parties who were sent the Supplementary Notice of Inquiry are all identified in some of the records for which section 17(1) was raised after further disclosure (referred to in the above extract from Interim Order PO-2793-I). They included one party that has been involved in this

appeal from the outset (identified as affected party C in Order PO-2793-I), one party which indicated that it would not be providing representations in the earlier stages of this appeal (affected party F), and one party that has not as yet been involved in this appeal (affected party E). I invited these three parties to provide representations on the issue of the application of section 17(1) to the records identified in that order for which notification issues were raised. I also invited these parties to address the issue of the possible application of section 23 in this appeal.

I did not send the Supplementary Notice of Inquiry to the Ministry or FSCO, as these parties had already provided representations on the issues. Furthermore, there are other affected parties identified in some of the remaining records (including affected parties B and D); however, for reasons described more fully below, in the circumstances I chose not to send the Supplementary Notice of Inquiry to the other affected parties. In brief, I have found that affected party B does not have an interest separate from affected party C (which did receive notice), and I have not ordered disclosure of affected party D's information.

None of the three affected parties responded to the Supplementary Notice of Inquiry.

RECORDS:

On my review of the records, I note that the withheld portions of FSCO-AID Record 144 are identical to portions of FSCO-AID Record 131, which I found to be exempt in interim order PO-2793-I. In the circumstances, I will not be reviewing the application of the exemption to FSCO-AID Record 144.

Furthermore, Minister's Office (3rd party records) Record 76 is identical to Record 61, and I will therefore not separately be reviewing the application of the exemption to Record 76, because my findings will be the same.

The records remaining at issue, and to which this Final Order relate are:

FSCO-CEO: Records 1, 4, 7 (in part) and 33

FSCO-AID: Records 40 (in part), 101 (in part), 109 (in part), 117 (in part), 119 (in part), 131 (in part), 137 (in part) 139 (in part), 148 (in part) and 149 (in part)

Minister's Office: Records 3, 43 (in part) and 117

Minister's Office (3rd party records): 20, 21, 22, 23, 25, 26, 28, 44, 46, 48, 50-52, 56-59, 61-63, 66, 68, 69, 73, 77, 80, 85 and 87.

DISCUSSION:

The only issue addressed in this Final Order is whether the exemption in section 17(1) applies to the remaining records and portions of records and, if so, whether the public interest override in section 23 applies.

THIRD PARTY INFORMATION

In the course of this appeal the Ministry and a number of affected parties (affected parties A, B, C and D) took the position that the mandatory exemptions in sections 17(1)(a), (b) and/or (c) apply to a number of records. I addressed a number of those records in Interim Order PO-2793-I; however, I am now reviewing the application of section 17(1) to the remaining records. In that regard, I will have reference to the representations of the Ministry and the affected parties who provided earlier representations to assist in determining whether the mandatory exemption in section 17(1)(b) applies to the remaining records. This means that, as I review the remaining records, I will determine which affected party(s) they relate to, and I will then determine whether the section 17(1) exemption applies based on my review of the records and on the representations, if any, that the Ministry and/or those affected parties may have provided earlier. Furthermore, it should be noted that, while section 17(1)(a), (b) and (c) are generally at issue, the focus of the submissions for the records covered by this order was primarily the possible application of section 17(1)(b), and my decision will deal with this issue accordingly.

As noted earlier, I did not receive any representations in response to the Supplementary Notice of Inquiry I sent to three affected parties.

Furthermore, in making my determinations, I will have reference to the findings made by me in Interim Order PO-2793-I, and will reproduce them in this order if necessary.

Section 17(1)

Section 17(1) states:

A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency;

Section 17(1) is designed to protect the confidential “informational assets” of businesses or other organizations that provide information to government institutions [*Boeing Co. v. Ontario (Ministry of Economic Development and Trade)*, [2005] O.J. No. 2851 (Div. Ct.)]. Although one of the central purposes of the *Act* is to shed light on the operations of government, section 17(1) serves to limit disclosure of confidential information of third parties that could be exploited by a competitor in the marketplace [Orders PO-1805, PO-2018, PO-2184, MO-1706].

For a record to qualify for exemption under sections 17(1)(a), (b) or (c), the Ministry and/or the affected party must satisfy each part of the following three-part test:

1. the record must reveal information that is a trade secret or scientific, technical, commercial, financial or labour relations information; and
2. the information must have been supplied to the Ministry in confidence, either implicitly or explicitly; and
3. the prospect of disclosure of the record must give rise to a reasonable expectation that one of the harms specified in (a), (b) or (c) of subsection 17(1) will occur.

[Orders 36, P-373, M-29 and M-37]

General representations

Type of Information

As identified in Interim Order PO-2793-I, the Ministry and the affected parties take the position that the records contain financial, commercial and/or technical information for the purpose of part one of the three part test. The appellant takes the position that only some of the records contain the type of information which qualifies for exemption under section 17(1).

As I found in Interim Order PO-2793-I, generally speaking, I am satisfied that the information contained in the records for which the section 17(1) claim has been made contains commercial and/or financial information. A number of the records remaining at issue for which the third party exemption is claimed include information relating to interest rates charged, rate filing information, and profit/loss data.

However, for the reasons discussed below where I find that the “harm” in section 17(1)(b) has not been established, it is not necessary for me to make a separate determination on the application of this part of the test for all of the records at issue.

Supplied in confidence

As set out in Interim Order PO-2793-I, the Ministry and the affected parties take the position that the information provided to the Ministry by the affected parties was “supplied in confidence”. The records at issue in this final order are similar in character to those addressed in Interim Order PO-2793-I. As I found in Interim Order PO-2793-I, based on the representations of the parties

and on my review of the records generally, (with certain exceptions addressed separately, below), I am satisfied that the information contained in the records for which the section 17(1) claim has been made were supplied by the affected parties to the Ministry in confidence.

Harms – 17(1)(b)

In this final order I address issues regarding the application of section 17(1) (particularly 17(1)(b)) to the remaining records. I also addressed this issue, including the representations of the parties which are also made for the remaining records, in Interim Order PO-2793-I. In these circumstances, I find it useful to quote from the relevant portion of Interim Order PO-2793-I. In that order I addressed the general application of section 17(1)(b) as follows:

The Ministry and affected parties rely primarily on the exemption found in section 17(1)(b) to deny access to the records.

The Ministry states:

In the context of a regulated sector such as automobile insurance, information provided by industry stakeholders such as rate filing information, and information relating to the costing of possible auto insurance reforms, is crucial to a successful risk-based regulatory structure, and to effective public policy development, which rely in part on the active participation of the regulated sectors.

The release of valuable information provided to FSCO or the Ministry in confidence would not only damage or destroy the value of protected informational assets, but also interfere with the ability of FSCO and the Ministry to effectively regulate automobile insurance and to develop sound public policy, since in the absence of clear protection, industry stakeholders can reasonably be expected to limit providing FSCO and the Ministry with necessary and valuable information, beyond the minimum amount of information that is strictly required by law.

This would significantly diminish the ability of the government in its ability to develop effective policy, given the technical and complex nature of auto insurance. ...

It is submitted that the sharing of useful financial and technical information of this type to FSCO and the Ministry related to the impact of reforms, and the profitability of industry participants, is of benefit to government and the public. This sharing would reasonably be expected to be impaired or limited by disclosure. It would be to the detriment of the public if stakeholders are not able to provide financial and statistical information to the government

officials on a confidential basis in the context of legislative reform and regulatory initiatives.

FSCO and the Ministry strive to have an open door policy for the sharing of statistical, financial and technical information by stakeholders, and encourage frank and direct communication. The ability to provide effective regulation depends on timely sharing of information by stakeholders, not just that which is legally mandated. The provision of financial, technical and commercial data from industry stakeholders is critical to policy choices and regulatory decisions made with respect to automobile insurance.

The reasonable expectation of stakeholders is that this information is provided on a confidential basis and is not shared.

It is submitted that a reasonable consequence of the release of these records is that the disclosure of similar information by stakeholders, and consequently the ability of the regulator and the Ministry to obtain timely, useful and sensitive information from stakeholders, will become impaired.

The Ministry also states:

The third parties are perhaps in the better position to assess the consequences of this disclosure and they have been asked to make their own submissions.

The affected parties state that disclosure of the records will result in their reluctance to provide similar information to the Ministry when invited to do so in the future. The statements by the affected parties can be summarized as follows:

- if this information is released, the affected parties would be reluctant to offer suggestions to the Ontario government in the future;
- the objectives of the Ministry, FSCO, and other government bodies would be made more difficult if insurers were unable to provide information to government bodies with the comfort and certainty that company information would be held in confidence;
- disclosure of the records would result in companies feeling that they are unable to fully cooperate with the government;
- disclosure of the information would discourage open dialogue with government bodies regarding proposed legislation and policy.

Regarding whether it is in the public interest that the information continue to be supplied to the government, the affected parties take the position that it is in the public interest that the Ontario government obtains the expert advice of

professionals in the insurance industry on matters relating to proposed changes to insurance. They also take the position that, absent such expert advice, it is likely that the proposals would have unintended consequences, and result in additional harm, particularly in the field of auto insurance.

The appellant's representations focus primarily on the records relating to affected party C. Affected party C is not an insurance company; rather, it is an identified trade association. This affected party's representations state:

The third party information at issue ... relates to the Driver's Choice option for the automobile insurance product. We suggest that the description of this product option is a type of "technical information" as that term is used in section 17(1). The organized field of knowledge is the field of insurance and the work was created by insurance professionals.

[Affected party C] supplied the information to FSCO directly and in response to the request from the Ontario government for alternatives to the proposal that it had developed for an auto insurance choice product. In view of this, it was and remains [affected party C's] expectation that the material would not be disclosed to third parties, but would instead be used by the Ontario government to determine whether to proceed with the auto insurance choice option. There was an implicit reasonable expectation that the information would be treated confidentially and, in fact, FSCO has indicated it intends to abide by that.

With respect to the harms in section 17(1), affected party C takes the position that the harm in section 17(1)(b) would apply to the information. It states:

If this information is released to a third party, [affected party C] would be reluctant to offer suggestions to the Ontario government on alternatives to proposals relating to insurance that have been developed by the government. It is in the public interest that the Ontario government obtains the expert advice of professionals in the insurance industry on matters relating to insurance, with respect to which the government is proposing changes. Without this expert advice on the implications of the options that the government is proposing, it is quite likely that the proposals would have unintended consequences and create more harm than is the harm that the proposal was intended to address. This concern is particularly acute in the field of auto insurance, which is a product that all owners of vehicles operated on highways are required, by law, to have.

Appellant's representations

Affected party C's representations were shared with the appellant. The appellant took issue with affected party C's position, and stated:

Information submitted by [affected party C] does not qualify as "commercial information". Records put forth by [affected party C] in response to requests from FSCO or as responsive to a consultation process as an interested stakeholder do not contain commercial information as that term has been defined. [Affected party C] does not produce or submit records that related to any specific merchandise or service it sells or is bought by FSCO or the Ministry or the public. The [affected party C] records do not contain information individually associated with any private insurance company but deal with the insurance industry as a whole and contain [affected party C's] recommendations for the operation of the regulatory system. The [affected party C] documents or reference to information from it in emails or other denied communications does not meet part 1 of the tests under section 17. With respect to the application of Part 3 of the tests regarding harms, the Appellant repeats that [affected party C] does not have a competitive position and so cannot suffer prejudice to its competitive position. The Appellant submits that the reasoning in Order PO-2233 in [its] entirety is applicable to the refusals under section 17.

The appellant also states that any information provided to the Ministry by lobbyists such as affected party C does not meet the mandatory exemptions in Section 17 for the following reasons:

- [affected party C] is not a business but rather a lobbyist group to which some insurance companies belong, but not all;
- [affected party C] does not possess confidential business "informational assets" but simply generic statistical information assembled from its members;
- [affected party C] does not have records that relate to any specific merchandise or service sold by the [affected party C] or bought by FSCO or the Ministry or any other person;
- [affected party C] does not have commercial or financial information of individual companies that it supplies to [the Ministry] but rather actuarial and average statistical information, which if disclosed would have no financial impact on itself or its individual members;

- [affected party C] has not submitted any evidence that the disclosure of its actuarial or costing proposals would cause any reasonable expectation of harm to any company or individual. A mere statement by Counsel in a letter submission is not evidence.

The appellant also makes specific representations on the application of section 17(1) to affected party B, which are addressed below.

In its reply representations, affected party C states:

The appellant argues that evidence has not been provided by the third parties to prove, e.g. that, with respect to an exception claimed under section 17(1)(b), “the disclosure could reasonably be expected to result in similar information not being supplied to the institution”. The statement by a third party, that it is likely that it would not supply further information to the institution if that institution were to disclose the information, ought to be sufficient proof of that fact. ... We also pointed out why it would be in the public interest that the Ontario Government continues to obtain the expert advice of professionals in the insurance industry on matters relating to insurance. The information [affected party C] provided was comprised of analysis of data and so qualifies as “technical information”. It was provided to FSCO by [affected party C] voluntarily. FSCO does not have the authority to compel [affected party C] to produce such information....

General findings

In general, in light of the representations set out above and the information provided regarding how the records were created and the consultation process, I am satisfied that records provided by identified insurance companies during the consultation process, and which would reveal confidential commercial, financial or technical information about those companies, qualify for exemption under section 17(1)(b). Contrary to the position taken by the appellant, it appears that the third parties were involved in the consultation on a voluntary basis, and the companies provided the information about their own situation to the Ministry in confidence. In my view, based on the representations of the parties, disclosure of this information could reasonably be expected to result in similar information no longer being supplied to the institution by these companies. I also find that, based on the representations and the description of the consultation process, it is in the public interest that similar information continue to be so supplied. Accordingly, where the records contain information about identified companies, these records qualify for exemption under section 17(1)(b).

However, as a general finding, I am not satisfied that the disclosure of the information provided by affected party C and relating to it could reasonably be

expected to result in the harms under section 17(1)(b). Affected party C is a trade association. One of the purposes of this association includes lobbying government on matters which would impact affected party C's members. In that regard, I find that information contained in records which reflect the input provided by affected party C on behalf of its members, and which does not otherwise reveal information supplied in confidence by its members, could not reasonably be expected to no longer be provided to the government. Given that one of the stated purposes of affected party C is to provide input to government, I do not accept affected party C's argument that it would be reluctant to provide similar information in the future if the information at issue is disclosed. However, in the event that the records contain information relating to other affected parties, or would reveal such information, the information may qualify for exemption.

In the context of the discussion from Interim Order PO-2793-I, set out above, I will now review the application of section 17(1) to the remaining records.

Records relating to Affected party C:

As I indicated earlier, affected party C did not provide representations in response to the supplementary Notice of Inquiry; however, affected party C provided representations at an earlier stage in the process, as set out in Interim Order PO-2793-I (quoted above). The Ministry also made general submissions on the application of section 17 to the records (also set out above). Based on those representations, I made a number of findings regarding affected party C, and these are also quoted above. I affirm those findings, and will apply them to the remaining records relating to affected party C.

FSCO-CEO Records 1, 4, 7 (in part) and 33

The Ministry also made specific representations regarding these records, apart from those noted above. The Ministry states:

Records 1, 4, and 7 contain e-mail messages from [affected party C] to government officials containing insurance industry financial results, such as quarterly industry earnings, anticipated return on equity, trends in premiums, claims costs, loss ratios, as well as other financial data, technical information and analysis of same. Records 4 and 7 also contain follow-up e-mail messages with the stakeholder or with FSCO staff in regard the information. In record 7 these follow-up messages have now been released, except the portion relating to the third party.

Record 1 contrasts [affected party C] data with data from the federal Office of the Superintendent of Financial Institutions. The e-mail exchange in record 4 further discusses the information and its implications. Record 4 also includes a follow-up e-mail message between the Superintendent and the stakeholder concerning this information, particularly references to the financial experience of [affected party F].

Record ... 33 ... contain[s] e-mail messages from the Superintendent to other FSCO and Ministry staff, including the Deputy Minister. In record ... 33 ... the Superintendent discusses information received from stakeholders on cost savings estimates regarding proposed auto reforms, and on the degree of insurance rate inadequacy.

Findings

I have carefully reviewed FSCO-CEO Records 1, 4, 33 and the excluded portion of Record 7 and, based on my review of those records and the Ministry's representations, I am not satisfied that these records or portions of records qualify for exemption under section 17(1)(b). As identified by the Ministry, the information contained in these records does contain material received from affected party C and supplied to government officials, and these records contain insurance industry financial results such as quarterly industry earnings, anticipated return on equity, trends in premiums, claims costs, loss ratios, as well as other financial data, technical information and an analysis of this information. These records also contain messages from and between government officials discussing the material.

However, I also note that the information and data contained in these records is aggregate industry information. Other than the references to affected party F in Records 4 and 33 (addressed below), there is no reference to specific information relating to third parties, and affected party C is providing this data as aggregate industry information.

In the circumstances, I am not satisfied that the disclosure of this information could reasonably be expected to result in harm under section 17(1)(b). As identified in Interim Order PO-2793-I, affected party C is a trade association, and one of its purposes includes lobbying government on matters which would impact affected party C's members. As I found in PO-2793-I, I again find, that information contained in these records which reflect input or information provided by affected party C on behalf of its members, and which does not otherwise reveal information supplied in confidence by its members, could not reasonably be expected to no longer be provided to the government. Given that one of affected party C's purposes is to provide input to government, I am not satisfied affected party C would be reluctant to provide similar information in the future if the information at issue is disclosed. Accordingly, I find that the information in these records pertaining to affected party C does not qualify for exemption under section 17(1)(b), and ought to be disclosed. (I address affected party F's interest in portions of Records 4 and 33, below).

I find support for this approach in previous orders of this office, which identified a number of factors to consider when in reviewing the application of section 17(1)(b). Order PO-1609 identified that one factor is whether "there is a financial motivation on the part of the affected parties to continue to submit detailed financial information." Order PO-2222 considered whether the information "[was] provided, on a voluntary basis, in order to assist [the affected party] in making its views known to the Ministry." In my view, both of these considerations support my finding that the disclosure of this information could not reasonably be expected to result in

similar information no longer being supplied to the institution by affected party C, given the nature of this affected party.

FSCO-AID - Record 40

In its representations the Ministry states that Record 40:

... is a series of e-mails between FSCO and Ministry staff, discussing insurance industry information provided by [affected party C]. The record has been released, except for the portion that relates to the third party. The [Ministry] relies upon the submission of the third party with respect to the applicability of the section 17 tests to this record.

I have found below that a reference to an unidentified affected party on the bottom of page 1 qualifies for exemption under section 17(1). The remaining information severed from this record is portions of pages 1, 2 and 3. On my review of this information, I find that it consists of aggregate industry information and data supplied to the Ministry by affected party C. Applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 101

The withheld portions of page 1 of Record 101 contain references to information provided by affected party B; however, the Ministry's representations refer to this party as "a third party actuarial firm retained by the insurance industry." It appears from the Ministry's representations, and also from a review of FSCO-AID Records 101, 117 and 119 that, when there are references to material provided by affected party B, this material was provided through affected party C. I find support for this in the fact that records 117 and 119 refer to these affected parties interchangeably.

In these circumstances, I consider affected party C as the party with an interest in these records, given that it retained affected party B, and given my finding in Interim Order P-2793-I relating to affected party B.

The Ministry states:

Record 101 is a briefing note on possible reforms for reducing auto insurance premiums. The note has been released to the Appellant, except for the portion containing cost savings estimates provided by a third party actuarial firm retained by the insurance industry. This third party information is exempt under the mandatory exemption in section 17, although this section was not referenced in the index of records.

[The Ministry] requests permission to add the exemption in s. 17 in respect of the withheld information.

Costing information prepared by professional actuarial firms that provide an estimate of the amount of premium savings associated with particular auto reforms, constitutes “financial information” since the data relates to money or finance matters; “commercial information” since it relates to the buying or selling of services, and “technical information” as it relates to an organized field of knowledge, specifically actuarial science.

The information was supplied on a confidential basis for the explicit purpose of assisting the Government to determine the cost impact of the reform initiatives under consideration.

It is in the public interest that third parties be entitled to provide this kind of expertise and information to the Government on a confidential basis in relation to the technically complex aspects of auto insurance, as discussed previously in this submission.

It is further submitted that a reasonably foreseeable consequence of requiring disclosure of this record is that information of this type will no longer be supplied to the Institution or will be limited. In this regard [the Ministry] relies on the submission of the third party as to the consequences of non-disclosure and the applicability of the s. 17 tests.

The information severed from this record is costing impact information (including aggregate data) provided by an actuarial firm retained by affected party C. On my review of this information, I find that it consists of aggregate industry information and data supplied to the Ministry by affected party C and, applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 117 (page 1 and top of page)

In Order PO-2793-I, I found that the first page and the top of the second page of this record did not qualify for exemption under section 13(1); however, I stated that I would invite representations on the possible application of section 17(1) to this part of Record 117.

On my review of this information, I find that it consists of aggregate industry information and data supplied to the Ministry by affected party C and another unidentified party (a third party actuary). In my view the disclosure of the information received from the unidentified party would not result in section 17(1) harms, as it seems to be information supplied to the Ministry under contract, and this party is, in any event, not identified in the body of the record. With respect to the information relating to affected party C, applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 119

Similar to the information contained in FSCO-AID Record 101, the only information severed from this record is information received by the Ministry from affected party B, who was retained by affected party C. This information is also similar to the information severed from FSCO-AID Record 117. Applying the same rationale as I did to those records, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 131

This record consists of a number of options. All of the record except for certain identifiers was disclosed. I address identifiers relating to affected party D below.

With respect to the option information in this record relating to affected party C severed from page 4 of the record, applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 139

The Ministry states:

Record 139 is a briefing note that provides a comparison of the costing associated with a list of options on customized auto policy reform prepared by two actuarial firms. The record has been disclosed to the appellant, except for the costing figures setting out the projected cost increases associated with the reforms, and the underlying assumptions as footnoted in the record, provided by an actuary retained by a third party.

The undisclosed portion of the record is exempt under the mandatory exemption in section 17, for the reasons discussed in relation to [FSCO-AID Record 101], above.

The information severed from the record is information supplied to the Ministry by affected party C (and includes information provided by affected party E). I address affected party E's interests below. With respect to affected party C's concerns regarding the harms in section 17(1), applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 148

The Ministry states:

Record 148, as severed, is a briefing note that contains an analysis of the differences between the findings of two actuarial firms regarding the cost implications of particular auto reforms. The record has been released to the appellant, except for the actuarial costing information and assumptions of a third party stakeholder that has been withheld under the mandatory exemption in section 17. The withheld information is exempt, for the same reasons as are provided in relation to [FSCO-AID Record 101] above.

The information severed from this record is information supplied to the Ministry by affected party C. With respect to affected party C's concerns regarding the harms in section 17(1), applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

FSCO-AID - Record 149 (pages 4 and 5)

The Ministry states:

Record 149 is an actuarial report from the actuary retained by FSCO. The record has been released except for the last two pages which sets out an analysis of the costing prepared by a third party actuary retained by [affected party C]. The record describes the costing and assumptions behind the costing prepared by the [affected party C] actuary. The unreleased actuarial information is third party information and is exempt from disclosure for the same reasons as the actuarial information discussed in record 101.

The information contained on pages 4 and 5 is an analysis of information supplied to the Ministry by affected party C (and includes information provided by affected party E). I address affected party E's interests below. Again, with respect to affected party C's concerns regarding the harms in section 17(1), applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

Minister's Office - Record 43

The Ministry states:

Record 43 is a summary of a submission made by [affected party C] examining various automobile insurance reform initiatives. [Affected party C] is a voluntary trade association whose members are comprised of insurance companies that conduct business in Canada. In some cases when the Government proposes to introduce insurance reforms, specific stakeholders (due to their expertise) may be contacted directly, for their comments and views on the proposed reforms. As

they are not public consultations, stakeholder views are supplied in confidence. Stakeholder input is vital to insurance reform as it ensures that any proposals are viable and that all aspects have been considered. The financial information supplied by [affected party C] has been severed as it was supplied in confidence. [Affected party C] has advised the Ministry that any information that they have provided should not be disclosed The disclosure of the information could result in similar information no longer being supplied to the Ministry for future proposals which would compromise a meaningful review of any future proposals prior to implementation. As a result, it is the position of the Ministry that the severed portion is exempt under section 17(1).

As identified by the Ministry, the information severed from this record is the information provided by affected party C, and consists of costing information set out in a table of comparisons.

Again, with respect to affected party C's concerns regarding the harms in section 17(1), applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

Minister's Office (3rd party records) – Records 20-23

These records are addressed in Order PO-2793-I, as follows:

These four records consist of three draft reports and one final report sent from affected party B to affected party C. Affected party B states:

We supplied the information to [affected party C] which, with our permission, then passed the information on to the government in response to [a] government request for alternatives to the proposal that it had developed for an auto insurance choice product. In view of this, it was and remains our expectation that the material would not be disclosed to third parties. There was an implicit reasonable expectation that the information would be treated confidentially.

Affected party B then states that section 17(1)(b) applies to these reports:

If this information is released to a third party, [affected party B] would, be reluctant to offer suggestions to the government on alternatives to proposals relating to automobile insurance that have been developed by the government. It is in the public interest that the government obtains the expert advice of professionals in the insurance industry on matters relating to insurance, with respect to which the government is proposing changes. Without this expert advice on the implications of the options that the government is proposing, it is quite likely that the proposals would have unintended consequences and create more harm than is the harm

that the proposal was intended to address. This concern is particularly acute in the field of auto insurance, which is a product that all owners of vehicles operated on highways are required, by law, to have.

[Adjudicator's note: I observe here that the reference to “affected party B” in square brackets above actually refers to the reluctance of its client, affected party C]

The appellant submits that generic actuarial reports proposing the cost of individual components of insurance coverage do not meet the tests under section 17 and that, in particular the actuarial reports in Records 20, 21, 22, and 23 should be fully disclosed.

Findings

On my review of these four records (the three draft reports and the final report), I am not satisfied that they qualify for exemption under section 17(1). These reports were prepared by affected party B for affected party C, which then forwarded them on to the Ministry. Affected party B is identified as a company providing actuarial and consulting services. It is unlikely that this does not entail a fee for service. There is nothing on the face of the record to suggest that affected party C is precluded from using the information in the report for its own purposes. In the circumstances, I have not been provided with sufficient evidence from affected party B to persuade me that disclosure of this record would result in similar information no longer being supplied to the Ministry. Accordingly, I do not accept affected party B's position that these records qualify for exemption under section 17(1)(b). However, because these reports were provided to the Ministry by affected party C, affected party C will be given an opportunity to provide representations on these records.

I invited affected party C to provide further representations in response to the Supplementary Notice of Inquiry sent to it, but have not received any further representations from affected party C. The Ministry's reply representations do address the records in the category *Minister's Office (3rd party records)*, and they are identified below. I apply that same finding to Records 20-23.

In the circumstances, and based on my review of these records, the representations of affected party C referenced in Interim Order PO-2793-I, and the Ministry's representations, I again apply the same principles set out in PO-2793-I, and I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government.

Minister's Office (3rd party records) - Records 25, 26, 28, 44, 46, 48, 50-52, 56-59, 61-63, 66, 68, 69, 73, 77, 80, 85 and 87

These records contain material provided by affected party C to the Ministry. Many of these records provide suggestions, comments or proposals relating to aspects of auto insurance. Some

records also contain specific data relating to various rates and figures. Some of these records are in the form of email communications, and other records are in the form of papers or tables of figures. In addition, some of these records (for examples, a portion of Record 50) are email communication between government staff, referring to material provided by affected party C. In some instances, these emails refer to very specific information contained in the material provided by affected party C.

I received few specific representations relating to the category of *Minister's Office (3rd party records)*; however, the general representations submitted by the parties also apply to these records. Furthermore, the Ministry did provide reply representations specifically on this category of records, and submitted that the harm under section 17(1)(b) would result from disclosure. The Ministry's reply representations effectively re-state its earlier submissions, stating that disclosure would have a "chilling effect on consultations" and "could result in similar information no longer being supplied to [the Ministry] in respect of future reform proposals. The Ministry also states that "there is a risk" that the information provided "will be more limited and circumspect and likely would be limited to what is strictly required by law." The Ministry also states: "Stakeholder input is critical to sound public policy development and legislative reform in a technically complex area of provincial regulation."

Findings

Record 73 appears to be a copy of general informational material sent from affected party C to its members. Although no specific representations on this record were provided directly to this office, I note that affected party C refers specifically to this record in its earlier submissions to the Ministry. In my view, it was clearly in affected party C's interest to provide this material to the Ministry, and I am not persuaded that it would be less willing to provide similar information to the Ministry in the future. Accordingly, I find that it does not qualify for exemption under section 17(1)(b).

A few of the records also specifically refer to two affected parties (affected parties B and E). For example, Records 57 and 59 refer to affected party B, and Record 61 refers to affected party E. As identified above, both of these parties appear to have been retained by affected party C to provide data and analysis. I address the interests of these two parties below, and apply them to the references to these two parties in these records. Accordingly, I find that section 17(1) harms do not apply to information relating to these two affected parties.

Record 44 also refers to information relating to affected party F. I address that affected party's interest in this record below.

Record 69 contains references to information received by affected party C from a specific law firm, and forwarded to the Ministry. It appears from the record that the law firm was retained by affected party C. In these circumstances, I find that the section 17(1) harms cannot be engaged for this information received from a law firm providing information to affected party C. Furthermore, although not claimed, to the extent that this record could raise the possible application of the solicitor-client privilege exemption in section 19, disclosure to the Ministry would clearly result in waiver of the privilege for this record.

Again, with respect to affected party C's concerns regarding the harms in section 17(1), applying the same principles set out in PO-2793-I, I find that disclosure could not reasonably be expected to result in this type of information no longer being provided to the government. Given the nature and purpose of an organization such as affected party C, I find that information contained in records which reflects the input provided by affected party C on behalf of its members, and which does not otherwise reveal information supplied in confidence by its members, could not reasonably be expected to no longer be provided to the government. Accordingly, I am not satisfied that disclosure could reasonably be expected to result in similar information no longer being supplied to the institution, and find that these records do not qualify for exemption under section 17(1)(b).

Records relating to Affected party E:

FSCO-AID - Record 131, 139 and 149

Minister's Office - 3rd party records - Record 61

These records contain information relating to affected party E which, as was the situation with affected party B, is identified as a company providing actuarial and consulting services to affected party C. It is unlikely that this does not entail a fee for service. There is nothing on the face of the records to suggest that affected party C is precluded from using the information received from affected party E for its own purposes. In the circumstances, and in the absence of representations from affected party E, I find that I have not been provided with sufficient evidence to persuade me that disclosure of these records would result in similar information no longer being supplied to the Ministry. Accordingly, I do not accept that these records qualify for exemption under section 17(1) for any interest affected party E may have in these records.

Records relating to Affected party F:

These records contain information relating to affected party F. Affected party F, an association, is a specifically identified affected party, however, it is not a corporate entity, and is different in nature to the affected parties that are individual insurance companies. The Ministry's representations support this finding, as its representations often make a distinction between "information ... filed by the individual [named] insurers" and "[affected party F] ... filing information." (See, for example, the Ministry representations relating to FSCO-AID Record 109, below).

Affected party F was provided with the opportunity to submit representations for certain records at an earlier stage in the process. For those records relating to it, affected party F stated that it was not submitting representations on the issues. I also decided to send the Supplementary Notice of Inquiry to affected party F, and did not receive representations on the possible application of section 17(1) from it.

FSCO-CEO: Records 4 and 33

These records contain references to affected party F; however, the references to information relating to affected party F is of a general nature and, in the absence of any representations describing the nature of any harm that might result from disclosure, I am not satisfied that disclosure would result in any of the harms in section 17(1) to affected party F.

FSCO-AID: Record 109

The withheld portions of this record contain specific references to affected party F, including specific calculated amounts of numbers, rate change proposals, and impacts.

The Ministry states:

Records 109, 110 and 112, as severed, contain information on rate filings that insurers and [affected party F] have filed with FSCO requesting changes to their rates charged to consumers, pursuant to the *Automobile insurance Rate Stabilization Act, 2003* (referred to in the records as “Bill 5”).

These records have been released to the Appellant, except for information related to proposed auto insurance rate changes filed by the individual insurers named (Records 110 and 112) and [affected party F] rate filing information (Record 109).

Permission is requested to add the mandatory exemption in section 17 in relation to these records.

Rate filing information of this type is exempt under section 17. The position of FSCO is that while rate changes that are ultimately approved by FSCO are considered public information, the actual proposals submitted by the insurers are not.

The IPC has previously determined that rate filing information from insurers is supplied in confidence to FSCO and meets the three part test in section 17 [Order P-1526].

The Ministry then refers to another appeal in which the issue of the confidentiality of rate filings is raised, and then states:

As discussed in detail in FSCO’s submission in that appeal, any portion of a rate filing that is not approved by FSCO is considered confidential and is never released, and all rate filing information, with some exceptions as discussed therein, is exempt under section 17.

The [Ministry] adopts and relies upon the submissions made in that appeal, and submits that the rate filing information in these records pertaining to the insurers

named, and [affected party F], contains commercial, financial and trade secrets information, was supplied in confidence to FSCO, and gives rise to the reasonable expectation of the harms discussed in s. 17(1)(a), (b) and (c).

In Interim Order PO-2793-I, I addressed the issues of rate filing information of insurers contained in FSCO-AID Records 110 and 112 and stated:

On my review of Record 110 and 112, they are charts containing summary information relating to proposed rate changes for a number of identified companies. Portions of these records have been disclosed. The portions which have not been disclosed contain or would reveal the proposed rate changes submitted by each identified company. Based on the information provided by the Ministry and the affected parties, I am satisfied that this information qualifies for exemption under section 17(1).

However, with respect to the rate filing information relating to affected party F, although the section 17(1) claim has been made for the withheld information, affected party F declined to make representations on the application of section 17(1) to the records. Rate filing information is not, *per se*, exempt from disclosure without any evidence of harms. Furthermore, the previous orders which have found rate filing information to qualify for exemption under section 17 (Orders P-1526 and PO-2734) dealt with rate filings submitted by individual identified insurance companies, and the rate filing information in this record does not appear to be related to a specific insurance company. In the absence of representations from affected party F supporting the position that section 17(1) applies, and in light of the fact that affected party F is different in nature than other identified companies, I have not been provided with sufficient evidence to satisfy me that information relating to affected party F qualifies for exemption under section 17(1).

Minister's Office - Record 3

The Ministry states:

Record 3 is an email sent ... from the Superintendent to staff in the Minister's Office concerning [affected party F's] first rate filing under Bill 5 (rate freeze legislation). It is the position of the Ministry that information related to rate filings is exempt from disclosure under section 17 [as set out in the Ministry's representations for FSCO/AID records 109, 110 and 112].

Record 3 does contain references to filings by affected party F. However, as noted above, affected party F was again invited to submit representations on the application of section 17(1) to the remaining records, and it chose not to provide representations. In the circumstances, and for the same reasons as set out in my decision above relating to FSCO-AID Record 109, I find that I have not been provided with sufficiently detailed and convincing evidence to satisfy me that information relating to affected party F qualifies for exemption under section 17(1).

Minister's Office - 3rd party records: Record 44

This record contains references to affected party F; however, the references to information relating to affected party F is of a general nature and, in the absence of representations, I am not satisfied that disclosure would result in any of the harms in section 17(1) to affected party F.

Records relating to Affected party D:

FSCO-AID: Record 131

Record 131 consists of a series of options. On the fifth page of this record are two references to a specific company (affected party D) that provided material to the Ministry. Only the identity of affected party D company has been severed from the records.

In keeping with my findings in Order PO-2793-I that information provided by corporate bodies which may reveal material supplied in confidence qualifies for exemption under section 17(1)(b), I am satisfied that section 17(1)(b) applies to this information.

Records relating to Affected party B:

FSCO-AID - Records 101 and 119

Minister's Office - 3rd party records - Records 57 and 59

The withheld portions of FSCO-AID Records 101 and 119 contain references to information provided by affected party B. Minister's Office – 3rd party Records 57 and 59 are emails which appear to refer to information relating to affected party B.

The Ministry provided representations on the application of section 17(1) to the withheld portions of Records 101 and 119. I have addressed these representations above under my discussion of those records as they relate to affected party C. I also addressed the possible application of the section 17(1) exemption to the interest of affected party B in my discussion of Record 101 as follows:

The withheld portions of page 1 of Record 101 contain references to information provided by affected party B; however, the Ministry's representations refer to this party as "a third party actuarial firm retained by the insurance industry." It appears from the Ministry's representations, and also from a review of FSCO-AID Records 101, 117 and 119 that, when there are references to material provided by affected party B, this material was provided through affected party C. I find support for this in the fact that records 117 and 119 refer to these affected parties interchangeably.

In these circumstances, I will consider affected party C as the party with an interest in these records, given that it retained affected party B, and given my finding in Interim Order P-2793-I.

My finding in Interim Order PO-2793-I concerning records specifically drafted by affected party B, reproduced earlier in this decision, stated:

On my review of these four records (the three draft reports and the final report), I am not satisfied that they qualify for exemption under section 17(1). These reports were prepared by affected party B for affected party C, which then forwarded them on to the Ministry. Affected party B is identified as a company providing actuarial and consulting services. It is unlikely that this does not entail a fee for service. There is nothing on the face of the record to suggest that affected party C is precluded from using the information in the report for its own purposes. In the circumstances, I have not been provided with sufficient evidence from affected party B to persuade me that disclosure of this record would result in similar information no longer being supplied to the Ministry. Accordingly, I do not accept affected party B's position that these records qualify for exemption under section 17(1)(b). However, because these reports were provided to the Ministry by affected party C, affected party C will be given an opportunity to provide representations on these records.

In the circumstances, applying a similar analysis, I find that the interests of affected party B are not engaged such that the section 17(1) harms could apply to this affected party, given that this party is identified as a company providing actuarial and consulting services (presumably for a fee). I find support for this approach in affected party B's own representations, where they indicate that section 17(1)(b) applies because affected party C would be reluctant to provide similar information in the future. Accordingly, to the extent that an affected party's interest in these records is engaged, it would be affected party C's interest, and I have addressed this interest above.

Records relating to other affected parties

Record FSCO-AID 40

The name of an affected party has been severed from FSCO-AID Record 40.

In Interim Order PO-2793-I, I identified two records (FSCO-AID 110 and 112) which contained information relating to "numerous affected parties", and which I found were exempt under section 17(1). I stated:

On my review of Record 110 and 112, they are charts containing summary information relating to proposed rate changes for a number of identified companies. Portions of these records have been disclosed. The portions which have not been disclosed contain or would reveal the proposed rate changes submitted by each identified company. Based on the information provided by the Ministry and the affected parties, I am satisfied that this information qualifies for exemption under section 17(1).

On page 1 of FSCO-AID Record 40 there is a reference to one of these affected parties. Although there is no specific rate change information relating to this affected party, I am satisfied that the same principles apply to the reference to this named corporate entity on page 1 of Record 40, and I will order that the name of the affected party not be disclosed.

Records for which there is no identified affected party

Minister's Office - Record 117

The Ministry states:

Record 117 is an email sent ... from the Superintendent to staff in the Minister's Office regarding insurer's rate filing applications. It is the position of the Ministry that information related to rate filings is exempt from disclosure under section 17 [as set out in the Ministry's representations for FSCO/AID records 109, 110 and 112].

On my review of this record, I note that the email contains references to amounts and information provided by third parties to the Ministry, and relates to rate filings, but that there is no reference to any named company or third party. The information, though specific with respect to certain rate amounts, is at the same time not specific as it cannot be connected to an identified third party. I have also not been provided with sufficiently persuasive evidence to convince me that the disclosure of this record would reveal information which would qualify under section 17(1) of the *Act*. Accordingly, I find that this record does not qualify for exemption under section 17(1).

PUBLIC INTEREST

As I stated in Order PO-793-I, the appellant takes the position that the public interest override at section 23 of the *Act* applies in the circumstances of this appeal, as there exists a compelling public interest in disclosure of the records that clearly outweighs the purpose of the exemptions in section 17(1).

Section 23 of the *Act* states:

An exemption from disclosure of a record under sections 13, 15, 17, 18, 20, 21 and 21.1 does not apply where a compelling public interest in the disclosure of the record clearly outweighs the purpose of the exemption.

In this final order, I have found that much of the information at issue does not qualify for exemption under the *Act*, and I have ordered it disclosed. I have found that the exemption in section 17(1) does apply to some information in the records.

In order to determine whether the public interest override applies to the information which I have found in this order qualifies for exemption under section 17(1), I have reference to the tests and representations of the parties set out in Order PO-2793-I, and I apply them in this final order.

Findings

I have carefully reviewed the appellant's representations on the public interest override, as well as the attachments to his representations and the records at issue.

I affirm my statements in Order PO-2793-I, where I stated:

Generally speaking, and based on the information provided by the appellant, I accept that there is a public interest in issues relating to rates and premiums for automobile insurance in Ontario, as well as profits made by automobile insurance companies. The numerous articles and commentaries provided by the appellant clearly show the media and public interest in matters of this nature. However, I must determine whether, in the circumstances, there is a compelling public interest in the disclosure of the records that clearly outweighs the purpose of the exemptions in sections ..., 17(1)

Regarding the information which I have found qualifies for exemption under section 17(1), it is significant that I have found this exemption to apply solely to information relating to identifiable insurance companies, and to information voluntarily provided by them to the Ministry. In that regard, this information was found to qualify for exemption under section 17(1)(b), and I note that, in finding that section to apply, I also made a finding that it is in the public interest that similar information continue to be provided. Previous orders have established that, in determining whether the public interest override in section 23 applies to a record, any public interest in *non*-disclosure that may exist also must be considered [*Ontario Hydro v. Mitchinson*, [1996] O.J. No. 4636 (Div. Ct.)]. On my review of the nine records or portions of records which I have found qualify for exemption under section 17(1)(b), I am not satisfied that a compelling public interest exists to override the application of the exemption to those records.

Applying this same approach to the portions of records which I have found qualify for exemption under section 17(1)(b), I find that there does not exist a compelling public interest in disclosure of those records that outweighs the purpose of section 17(1)(b).

ORDER:

1. I uphold the decision of the Ministry to deny access to the following records or portions of records:

FSCO-AID: - part of Record 40 (the name of an affected party on the bottom of page 1), and
- part of Record 131 (the two severed items on the fifth page).

2. I order the Ministry to disclose the remaining records or portions of records addressed in this final order by **August 16, 2010** but not before **August 11, 2010**.

Original signed by: _____
Frank DeVries
Adjudicator

_____ July 9, 2010