

markups applied to small brewers. In your review report, you find that this information is factual and can be derived from the attached unredacted report.

Finance took the following considerations into account when applying redactions under Section 16:

- The sentence attributed to an employee of the Yukon Liquor Commission begins with: “We are looking to set a XX per litre price...” (emphasis added). This could indicate that a decision to apply those prices had not yet been made.
- The pricing and “on-premise” category cited in the e-mail does not appear in the attached report. This could indicate that the information disclosed during the conversation was supplied explicitly or implicitly in confidence.

Although your comments suggest that this information could be “derived from...the report”, or “available to anyone who walked into those brewers’ public outlets”, ATIPP coordinators do not have that level of expertise or local access – they must use their best discretion, as was done in this instance.

Finance will accept the Commissioner’s recommendation to disclose this paragraph from pages 316, 333 and 350, however, it will retain the Section 16 exemption on the specific pricing information as it cannot be determined based on the information provided whether this price was, in fact, put into effect.

Section 23 (personal information of a third-party)

In your review report, you found that the NULC did not correctly apply Section 23(2)(h)(i) and 23(2)(h)(ii) on pages 863 and 865¹ and recommend disclosure.

This portion of the record refers to information supplied by a private individual that is then used to compile a competitive pricing comparison “between the Commission and illegal bootleggers”, which is disclosed in full on the preceding page. The disclosure of this information could imply or unfairly characterize that the person who supplied the information is involved in illegal activity. The redaction of this information meets the test in Section 23(3)(h) that disclosure “may unfairly damage the reputation of any person referred to in the record requested by the applicant”. Finance does not accept this recommendation and will maintain this redaction.

Exercising discretion (Section 14, 15, 23, 24 and 25)

Finance has enclosed a revised Exemptions Rationale Table which provides additional detail on how it exercised its discretion on all of the redactions in the release binder using Sections 14, 15, 23, 24 and 25.

Finance appreciates the Commissioner’s acknowledgement that, in several cases where a redaction could be applied, a decision was made by Finance not to. Our ATIPP coordinators did their due diligence to review materials with the record holders to determine what information could be reasonably disclosed and withheld, with disclosure always the preferred approach. These instances

¹ *NOTE: there is a typo in the page numbers cited in your recommendation at section [92] of your review report. It states that the pages in question are 354 and 356, when in fact paragraph 54 to 56 reference redactions on pages 863 and 865.

demonstrate that thought and effort were applied in exercising discretion.

Observations and final comments

We appreciate the Commissioner's recommendations and wish to note that Finance's decision to maintain small redactions to portions of the material mentioned in your review report should not be interpreted as rejecting your advice. Rather, we hope that we have better explained how and why we have exercised discretion in these instances.

Finance interpreted your review as having affirmed that most of our exemptions were applied correctly. A tremendous amount of time and effort has been put into this request, and as you noted in your report, the number of recommendations relative to the number of records is minimal. We further submit that the recommendations pertained to information of lesser consequence, as they mostly pertained to information already available in the public realm or misapplying the correct section of the ATIPP Act (as with Sections 23 and 24).

Looking more broadly at this request, we hope the Commissioner takes into consideration these factors when considering whether to review other portions of this ATIPP request. Finance's willingness to work with and provide information to the Applicant is evidenced in the many email exchanges between the Applicant and Finance/NULC staff compiled in this release, and in the two previous ATIPP requests from the Applicant on this matter.

Finance believes it has met and exceeded its duty to assist the Applicant in accessing information related to [REDACTED], and hopes this response satisfactorily completes and finalizes this ATIPP request.

Sincerely,



Hon. Lorne Kusugak
Minister Responsible for the Nunavut Liquor and Cannabis Commission

Cc: Dan Young, Deputy Minister, Department of Finance
[REDACTED]