

**Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Industry, Innovation, Science, Research and Tertiary Education Portfolio  
Supplementary Budget Estimates Hearing 2012-13  
17 October 2012

---

**AGENCY/DEPARTMENT:** DEPARTMENT OF INDUSTRY INNOVATION SCIENCE  
RESEARCH AND TERTIARY EDUCATION

**TOPIC:** FOI legal issue – commercial-in-confidence information

**REFERENCE:** Question on Notice (Hansard, 17 October 2012, page 37)

**QUESTION No.:** SI-19

**Senator RYAN:** On what day were Holden, Ford and Toyota informed that the material had been erroneously sent to the *AFR*—to use, I think, the defence of the department?

**Ms Weston:** They were advised on Saturday the 22nd of September.

**Senator RYAN:** Who informed them? Was it by email, telephone?

**Ms Weston:** There were phone calls made and—

**Senator RYAN:** Pleasant phone calls? Who placed the calls?

**Mr Lawson:** It myself and Mark Durrant.

**Senator RYAN:** There were 39 documents, I understand?

**Ms Weston:** Yes.

**Senator RYAN:** I am going to be careful, and if at any point I cross the line into where you would be uncomfortable answering because of legal action, please feel free to say. I have not been following the case in as much detail as some at the table. How many of the 39 documents contained commercial-in-confidence information?

**Ms Weston:** We might have to take that on notice. There were a variety of documents covering a variety of areas of exemption under the FOI Act. We can certainly take that on notice and provide you with more detail.

**ANSWER**

The schedule of documents that accompanied the internal review decision identified 32 documents. Twenty three of these documents (with their associated attachments) were erroneously sent to the *AFR*. The internal review decision identified some content within all of these 23 documents as exempt on the basis of various provisions of the FOI Act. These provisions included s.33 (Documents affecting national security, defence or international relations), s.34 (Cabinet Documents), s.45 (Documents containing material obtained in confidence), s.47 (Documents disclosing trade secrets or commercially valuable information), s.47B (Public Interest conditional exemptions – Commonwealth-State relations etc), s.47C (Public Interest conditional exemptions – deliberative process), s.47F (Public Interest conditional exemptions – personal privacy), s.47G (Public Interest conditional exemptions – business). In some cases more than one exemption provision applied to a particular document. Of the twenty three documents 17 contained exemptions on the basis of s.45 or s.47.