

Decision and reasons of Senior Assistant Ombudsman

Application number:	AFOI-RR/24/80002
Applicant:	'DM'
Respondent:	Chief Minister, Treasury and Economic Development Directorate
Respondent reference:	CMTEDDFOI 2024-112
Participants:	ACT Taxi Plate Owners Association, Ola Australia Pty Ltd, Uber Technologies Inc.
Date:	30 July 2025
Decision reference:	[2025] ACTOFOI 9
Catchwords:	Freedom of Information Act 2016 – deciding access – whether information is contrary to the public interest information – promote open discussion of public affairs and enhance the government’s accountability – contribute to positive and informed debate on important issues or matters of public interest – reveal the reason for a government decision and any background or contextual information that informed the decision – prejudice an agency’s ability to obtain confidential information – prejudice trade secrets, business affairs or research of an agency or person.

Decision

1. For the purpose of s 82 of the *Freedom of Information Act 2016* (FOI Act), I am a delegate of the ACT Ombudsman.
2. The ACT Taxi Plate Owners Association (the FOI applicant) applied for access to performance statistics required to be provided to the regulator by rideshare entities. The applicant (pseudonym of 'DM') applied for Ombudsman review of the decision made by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) to give partial access to information of concern to the applicant.
3. The FOI applicant joined this review as a participant. Ola Australia Pty Ltd (Ola) and Uber Technologies Inc. (Uber) also joined this review as participants objecting to the release of information of concern to them.
4. My decision is to **vary** CMTEDD's decision under s 82(2)(b) of the FOI Act.
5. I find the individual rideshare hirings statistics and average fare price of the applicant and Uber is contrary to the public interest information and refuse access to this information. I have decided to grant access to the remainder of the performance information.

Background to Ombudsman review

6. On 25 March 2024, the FOI applicant applied to CMTEDD for access to:

...relevant statistic data collected by the appropriate Government Agency regarding Ride Share (mostly Uber) activity. While ACT Government collects such statistics for Taxi Industry it is widely believed that the same Ride Share statistic data is delivered to the Authorities.
7. On 3 April 2024, CMTEDD wrote to the FOI applicant to clarify the scope of the application, and advised the application was suspended under s 34(4) of the FOI Act until the FOI applicant responded to the request.

8. On 4 April 2024, the FOI applicant provided an example of the template the taxi industry is required to complete and give to the regulator and explained they were seeking the same type of data provided by rideshare entities.
9. On 10 May 2024, CMTEDD wrote to the applicant to consult on the potential release of their rideshare data provided to the regulator. CMTEDD also wrote to Ola and Uber to consult on the potential release of information of concern to them.
10. On 13 May 2024, Ola wrote to CMTEDD objecting to the release of information of concern to Ola.
11. On 21 May 2024, the applicant wrote to CMTEDD objecting to the release of information of concern to the applicant.
12. On 3 June 2024, CMTEDD decided to grant full access to 8 documents and partial access to 16 documents.
13. On 7 June 2024, in response to receiving a copy of the decision Ola emailed CMTEDD to confirm they did not object to the partial release of information of concern to Ola (hiring statistics deleted, information de-identified).
14. On 14 June 2024, the applicant applied for Ombudsman review under s 73 of the FOI Act.
15. On 23 June 2024, the FOI applicant applied to participate in the Ombudsman review. The delegate approved the FOI applicant participating the Ombudsman review on 26 June 2024.
16. On 30 June 2024, Ola applied to participate in the Ombudsman review. The delegate approved Ola participating in the Ombudsman review on 1 July 2024.

17. On 2 July 2024, Uber applied to participate in the Ombudsman review. Uber explained they had prepared a response to CMTEDD when consulted on release dated 20 May 2024, but due to an internal error this submission was not provided to CMTEDD at that time. The delegate approved Uber participating in the Ombudsman review on 8 July 2024.
18. On 19 July 2024, the applicant provided submissions objecting to the release of information of concern to applicant.
19. On 9 May 2025, the former Senior Assistant Ombudsman provided their preliminary view to the parties in a draft consideration.
20. On 23 May 2025, the applicant accepted the draft consideration.
21. On 19 June 2025, CMTEDD provided submissions in response to the draft consideration in support of the original decision.
22. Ola, Uber and the FOI applicant did not respond to the draft consideration.
23. On 1 July 2025, CMTEDD confirmed the original decision and versions of documents provided to our Office contained errors (CMTEDD did not intend to give full access to any information in scope).
24. On 7 July 2025, CMTEDD provided the Office with a corrected table containing the combined total number of rideshare hirings.

Preliminary issue – deferred release of information

25. Within the decision notice given to the FOI applicant CMTEDD included a de-identified table of the total number of rideshare hirings each month, including the number and percentage of hirings during peak times, for all rideshare providers from January 2018 to March 2024 ('combined rideshare hirings table').

26. The third parties were not consulted on the combined rideshare hirings table, only their own individual performance information tables. However, this information was derived from the individual tables completed by rideshare entities and therefore includes hirings data which some of the third parties objected to the disclosure of.
27. In the draft consideration the former Senior Assistant Ombudsman considered this information may still concern the business affairs of those rideshare entities as it included their data.¹ It was expressed CMTEDD should have deferred giving access to third party information within combined rideshare hirings table until this review has ended.²
28. In response to the draft consideration CMTEDD explained individual rideshare providers were not consulted on the aggregated table because the business affairs of a single rideshare provider could not individually be affected as the data in the table cannot be attributed to an individual entity.
29. I accept it is not possible to attribute specific proportions of the statistics to individual rideshare entities once aggregated (i.e. re-identify the information).
30. I agree with CMTEDD's view disclosure of the aggregated table would not reasonably be expected to be of concern to individual rideshare providers because the information in this format (i.e. not broken down by rideshare provider) does not concern the business affairs of a specific rideshare provider.
31. As rideshare providers were not consulted on the combined rideshare hirings table, CMTEDD was not obligated to defer giving access to the information. I note CMTEDD did defer giving access to the information third parties objected to the release of (that is, the data in the individual performance tables).

¹ [Freedom of Information Act 2016 \(ACT\)](#) (FOI Act) s 38(3)(c).

² [FOI Act](#) s 38(6).

32. The draft consideration also identified the data in the table provided to the FOI applicant may not be accurate or include all rideshare hirings, as the combined hirings statistics included in the binder of information provided to the Office was significantly higher than what was provided to the FOI applicant.
33. In response, CMTEDD advised due to an error not all relevant hirings data was included in the table provided to the FOI applicant. A new version was prepared, and a copy provided to the Office.

Preliminary issue – scope of access application

34. The scope of the application was expressed as ‘relevant statistic data collected by the appropriate Government Agency regarding Ride Share (mostly Uber) activity’.
35. CMTEDD identified information relating to the taxi industry within the scope of the access application (document 18). CMTEDD also included email correspondence between Transport Booking Services (TBS) within the scope of the access application (documents 20-24).
36. In the draft consideration, the former Senior Assistant Ombudsman expressed it was not apparent why this information was included within the scope of the access application. While taxi services are included in the definition of a transport booking service, the FOI applicant only sought access to rideshare data. Similarly, while the email correspondence relates to the provision of the required statistics to the regulator, it does not include rideshare data.
37. In response to the draft consideration, CMTEDD explained to achieve a pro-disclosure outcome the taxi information was included in the scope of the application noting the FOI applicant represented the ACT Taxi Plate Owners Association and release would assist the applicant.

38. CMTEDD also explained the email correspondence was included within the scope of the application as it provided evidence to explain the absence of statistics from one rideshare provider, who was registered at the time, but did not provide any data because they did not provide any services in the relevant period.
39. I note the decision made by CMTEDD in relation to this information is not contested by the participants, and therefore is not further considered in this review.

Information at issue

40. In the decision notice and schedule of documents prepared for the FOI applicant CMTEDD stated they decided to grant full access to 8 documents (documents 10-17). In response to the draft consideration and in further discussion with the Office, CMTEDD explained this was an error.
41. CMTEDD explained the intended effect of the original decision was to grant partial access to all documents, releasing only de-identified data concerning price, average wait times and service quality (and other non-personal information in email communications about the statistics); and combined hirings statistics.
42. CMTEDD decided to refuse access to the number of rideshare hires for individual rideshare providers, and instead releasing the combined rideshare hirings table. CMTEDD also refused access to personal information in the email communications.
43. CMTEDD consulted 9 third parties in the processing of the access application where only 2 rideshare entities objected to the release of their information. As noted above, Uber intended to object to the release of their information when consulted, but their correspondence was not received by CMTEDD.

44. The information at issue in this Ombudsman review is the performance statistics of the applicant, Uber and Ola, provided to the road transport authority (the authority) ('TBS statistics'); and other tables including rideshare entities total hirings for each quarter for the years 2018–2023 (document 19).
45. TBS (including taxi and rideshare) are required each quarter to provide performance information to the authority.³ TBS are required to provide the following information for the relevant period:⁴
- Market – number of hirings in total and over a 24 hrs period (for hirings not subject to Part 8, the percentage of hirings occurring within peak periods),
 - Price – average fare price, percentage of fares subject to additional price elements (e.g. surge),
 - Service quality – average wait times for ACT and any one of the metropolitan districts (e.g. Woden Valley, Belconnen); and customer satisfaction, either number of complaints and average response time or average service feedback ratings.
46. The key issue to be decided in this Ombudsman review is whether the TBS statistics and document 19 is contrary to the public interest information.
47. In making my decision, I have had regard to:
- the applicant's Ombudsman review application dated 14 June 2024 and submissions dated 19 July 2024
 - the FOI access application dated 25 March 2024

³ [Road Transport \(Public Passenger Services\) Act 2001](#) (ACT) s 28; [Road Transport \(Public Passenger Services\) Regulation 2002](#) (ACT) s 20C.

⁴ [Road Transport \(Public Passenger Services\) Transport Booking Service—Service Standards 2020 \(No 1\)*](#) (ACT) (TBS Services Standards) Part 8.

- CMTEDD's decision of 3 June 2024, response to the draft consideration of 19 June 2025 and FOI processing file
- submissions provided by Ola and Uber
- the [FOI Act](#), particularly ss 16, 17, 35, 72 and Schedule 2
- the Freedom of Information Guidelines (FOI Guidelines) made under s 66 of the FOI Act, and
- the [Road Transport \(Public Passenger Services\) Act 2001 \(ACT\)](#), [Road Transport \(Public Passenger Services\) Regulation 2002](#), and [Road Transport \(Public Passenger Services\) Transport Booking Service – Service Standards 2020 \(No 1\)](#).

Relevant law

48. Section 7 of the FOI Act gives every person an enforceable right of access to government information. This right is subject to other provisions of the FOI Act, including grounds on which access may be refused.⁵
49. Section 35(1)(c) of the FOI Act provides an access application may be decided by refusing to give access to the information sought because the information being sought is contrary to the public interest information.
50. Contrary to the public interest information is defined in s 16 of the FOI Act as: information—
- (a) that is taken to be contrary to the public interest to disclose under schedule 1;
 - or
 - (b) the disclosure of which would, on balance, be contrary to the public interest under the test set out in section 17.

⁵ [FOI Act](#) s 35(1)(c).

51. The public interest test set out in s 17 of the FOI Act involves a process of balancing public interest factors favouring disclosure against public interest factors favouring nondisclosure to decide whether, on balance, disclosure would be contrary to the public interest.
52. Schedule 2 of the FOI Act sets out a non-exhaustive list of public interest factors which must be considered, where relevant, when determining the public interest.
53. Section 72 of the FOI Act provides in an Ombudsman review, a person seeking to prevent disclosure of government information has the onus of establishing the information is contrary to the public interest information.

The submissions of the parties

54. CMTEDD decided to grant access to the average fare price, wait times and service quality data in individual tables for all rideshare entities. CMTEDD prepared a de-identified schedule of documents, so it was not possible to associate parts of the statistics to specific rideshare providers. As discussed above at [25], CMTEDD decided to give access to a combined rideshare hirings table, and refuse access to the hirings statistics in individual rideshare provider tables which are broken down by month.
55. CMTEDD decided to refuse access to the names of all rideshare entities in document 19 and their individual rideshare hiring statistics, providing access to only the combined total hirings statistics for each quarter and annually.
56. In the decision notice provided to the FOI applicant, CMTEDD said:

...release of the information within scope of this request may reasonably be expected to promote open discussion of public affairs and enhance the government's accountability.

The documents identified contain information relating to the ACT taxi industry which I consider to be of public interest.

I consider the release of this information could reveal the reason for government decisions and provide background or contextual information that formed the decision.

The release of this information could enhance the Territory's accountability and contribute to positive and informed debate on policy changes in the taxi and ride share industry.

I have also considered the impact that the release of some of the information could have on the relations between the ACT Government and the ACT taxi and ride share industries.

The identified information contains confidential information provided to the ACT Government by members of the ACT taxi and ride share industries in confidence. I am satisfied that if released this may impede the Directorate's ability to obtain confidential information in the future and I consider that maintaining good working relations between the ACT Government and the ACT taxi and rideshare industries crucial to the ongoing negotiations on this issue and on future matters...

In addition, the ride share industry and taxi industry is highly competitive and releasing some information that was provided confidentially could reasonably be expected to provide a competitor with insights, thereby giving a competitor an opportunity to exploit the information to their advantage. I am satisfied that these factors favouring nondisclosure carries very significant weight.

In order to avoid providing individual ride share company data, which could disadvantage individual businesses, I have selected to de-identify the data.

I have also chosen to withhold the number of rideshare hires per individual ride share company and instead have aggregated this data based on the quarterly reports that have been provided.

57. The applicant disagreed the proposed redactions would maintain the anonymity of the businesses involved as the data is relatively current and highly sensitive commercial information where nondisclosure would preserve their relative competitive position.
58. Specifically, the applicant noted the information is relevant to current market conditions, business strategies and decision-making providing insight into their operations where disclosure would provide competitors with an unfair advantage and could create opportunities for market distortion.
59. In submissions to the Ombudsman, Uber objected to the release of information concerning Uber stating:

The Information is non-public, confidential and commercially sensitive to Uber...The specific detail in the Information paints a clear picture of Uber's business affairs across the state and in certain specific regions, and its disclosure would likely expose Uber to disadvantage and competitor scrutiny.

Even where certain data is presented as an average, the Information allows correlations to be drawn between changes in fare price, wait time and customer satisfaction, and could be used by a competitor as an indicator of Uber's business strategy and focus in particular regions. This would allow a competitor to adjust their strategy and pricing accordingly or reduce focus in those regions to their commercial benefit.

The Information would particularly benefit a direct competitor looking to launch a new or similar rideshare product, to grow an existing rideshare product in a more cost-effective or profitable way, or to better allocate its own resources at certain times and in certain areas.

This prejudice is exacerbated by the extended year range of the data which spans over 5 years.

Competitors could align the Information with their knowledge of other events in the market (for example, public holidays, major events, the launch of other products, entry or exit of competitors etc) to understand Uber's response to those events and formulate their own strategies.

Uber does not know the equivalent percentage of hirings, prices or service quality of its competitors. Where a competitor had access to this information from Uber, this would put Uber at a competitive disadvantage.

The disadvantage is likely to occur given heightened competition in the rideshare industry and the keen interest in our business priorities and performance by the taxi industry and our rideshare competitors.

60. Ola initially objected to the release of all information of concern to Ola when consulted by CMTEDD, identifying release would prejudice Ola's business affairs and CMTEDD's ability to obtain confidential information.
61. Following the decision, CMTEDD explained to Ola the only information to be released to the FOI applicant relating to Ola is the average fair price, wait times and service quality information and this information would be de-identified (also noting total hirings was to be aggregated). Ola confirmed they had no objections to the release of their information in this way.

Consideration

62. I have assessed an unredacted copy of the TBS statistics and document 19 and the submissions of the parties.

Public interest test

63. To determine whether disclosure is contrary to the public interest, the FOI Act prescribes the following five steps:

- identify any factor favouring disclosure that applies in relation to the information (a relevant factor favouring disclosure), including any factor mentioned in schedule 2, section 2.1
- identify any factor favouring nondisclosure that applies in relation to the information (a relevant factor favouring nondisclosure), including any factor mentioned in schedule 2, section 2.2
- balance any relevant factor or factors favouring disclosure against any relevant factor or factors favouring nondisclosure
- decide whether, on balance, disclosure of the information would be contrary to the public interest
- unless, on balance, disclosure of the information would be contrary to the public interest, allow access to the information.

Factors favouring disclosure

64. CMTEDD identified 3 factors favouring disclosure of the TBS statistics and document 19.

Promote open discussion of public affairs and enhance the government's accountability - Schedule 2, s 2.1(a)(i)

65. A factor favouring disclosure of information is where release could promote open discussion of public affairs and enhance the government's accountability.

66. CMTEDD stated release of the information could promote open discussion of the operation of the rideshare industry and government policy.
67. In response to the draft consideration, CMTEDD stated there has been media and news attention regarding the introduction of rideshare to the ACT over the past 5 years, particularly noting the ACT was the first Australian jurisdiction to regulate rideshare providers.
68. Disclosure of the TBS statistics and document 19 would demonstrate whether the required information has been provided by rideshare operators to the regulator, and reveal information held by CMTEDD about the rideshare industry which may inform government policy.
69. However, I am not satisfied release of this information would promote this factor to a significant extent, noting release of the information would not reveal any action taken by the regulator, or how this has impacted the development of government policy or legislative reforms.
70. For example, it is not apparent how the statistical data relates to licencing fees or caps, restrictions on fares, price surging, subsidies applicable or accessibility requirements for rideshare entities or other bookable services.
71. I attribute minor weight to this factor.

Contribute to positive and informed debate on important issues or matters of public interest - Schedule 2, s 2.1(a)(ii)

72. A factor favouring disclosure of information is where release could contribute to positive and informed debate on important issues or matters of public interest.
73. CMTEDD considered the TBS statistics and document 19 contains information relating to the taxi and rideshare industry which is of public interest, and which could contribute to positive and informed debate on policy changes.

74. I agree the regulation of transport booking services is a matter of public interest noting the public interest in ensuring transportation services are safe and available to the public.
75. Rideshare and taxi services are regulated services, where a person commits an offence if the person operates a regulated service and fails to comply with an applicable service standard.⁶
76. As discussed above at [68]-[70], while release would show the regulator has received information from rideshare entities, it is not apparent how this statistical data has informed changes to government policy or action taken by the regulator.
77. In response to the draft consideration, CMTEDD expressed the statistics could inform public debate on matters such as petrol price, taxes and increasing cost of rideshare services.
78. I acknowledge release of the TBS statistics and document 19 may contribute to debate on matters such as the affordability of transport services.
79. I attribute moderate weight to this factor, as the information at issue only includes information about average fare prices per month, and percentage of hirings in a peak period (8am - 10am and 3pm to 5pm Monday to Friday) and does not include other information which may assist in a discussion about affordability for example average kilometres travelled, travel times, government subsidies or price capping.

⁶ [Road Transport \(Public Passenger Services\) Regulation 2002](#) (ACT) ss 4B and 20C(1).

Reveal the reason for a government decision and any background or contextual information that informed the decision - Schedule 2, s 2.1(a)(viii)

80. A factor favouring disclosure is where disclosure of information could reveal reasons for government decisions and background or contextual information that informed the decision.

81. I note the relevant period for the TBS statistics is January 2018 until March 2024, which captures data 3 years post the commencement of rideshare in the ACT (document 19 contains data from 2018-2023).⁷

82. Following the initial commencement of the 2015 reforms to the on-demand transport industry, the ACT government conducted an evaluation of the changes and the impact on consumers and entities.⁸

83. In undertaking community consultation, survey respondents expressed fare pricing and regulation were key issues.⁹ I accept disclosure of the TBS statistics and document 19 would reveal contextual information about the performance of the rideshare industry.

84. In the draft consideration, the former Senior Assistant Ombudsman said it was not apparent how disclosure of this information would reveal reasons for decisions made by the regulator, changes to government policy or subsequent legislative reforms.

⁷ [Road Transport \(Public Passenger Services\) \(Taxi Industry Innovation\) Amendment Act 2015 \(ACT\)](#).

⁸ CMTEDD, Report to the ACT Government, [Evaluation of the 2015 Innovation Reforms to the On-demand Transport Industry in the ACT \(including Taxis, Hire Cars and Rideshare\) Summary report \(September 2018\)](#).

⁹ ACT Government, Your Say, [On-Demand Transport Industry, Report on what we heard \(6 November 2019\)](#).

85. In response to the draft consideration, CMTEDD stated release of this information would provide contextual background being data collected by the government when dealing with rideshare providers during a time when decisions were being made.
86. I consider this factor applies to the TBS statistics and document 19 and attribute minor weight, as release of the information would reveal some background or contextual information which may have informed policy development or the activities of the regulator.

Factors favouring nondisclosure

87. CMTEDD identified 3 factors favouring nondisclosure. In this matter, noting the scope of the review (information at issue does not include personal information), I consider only 2 factors are relevant to the TBS statistics and document 19.

Prejudice trade secrets, business affairs or research of an agency or person - Schedule 2, s 2.2(a)(xi)

88. A factor favouring nondisclosure of information is where release could reasonably be expected to prejudice trade secrets, business affairs or research of an agency or person. In this matter, it is the business affairs of rideshare entities which is relevant.
89. In the original decision, CMTEDD decided to give access to the average fare price, average wait times and customer satisfaction statistics for each rideshare provider. Some rideshare entities who were consulted on disclosure of information of concern to them did not object to the release of their data.

90. CMTEDD decided to refuse access to the hirings data for each rideshare provider in the individual tables, and instead provide access to a table with this data combined. CMTEDD decided redaction of identifying information and rideshare hirings statistics of individual entities would lessen the prejudicial impact of release.
91. The applicant and Uber objected to the release of all information of concern to them. Ola accepted CMTEDD's decision to grant partial access to the information of concern to Ola.
92. I note Ola ceased operations in April 2024 in Australia.¹⁰ For this reason, I am not satisfied release of information concerning Ola would prejudice their business affairs and do not consider this factor applies to the performance information of Ola.
93. Rideshare entities' service offering is the provision of on-demand transport services. It is not disputed these operations occur in a highly competitive environment due to the availability of numerous rideshare entities, other bookable services and public transport options.
94. I consider release of the TBS statistics and document 19 would provide information about the performance of the applicant and Uber, as the TBS statistics cover number of hirings, cost of fares, wait times and service quality broken down by month over a period of 5-6 years.
95. In the draft consideration, the former Senior Assistant Ombudsman considered release would provide substantial insight into the operations of those entities which could be utilised by competitors to obtain a commercial advantage.

¹⁰ [Australian Financial Review, 'Uber's dominance in Australia intensifies as Ola exits' \(9 April 2024\)](#).

96. For example, in the draft consideration they identified release of wait times in key regions could be used by a competitor to increase their service offering in locations which appear to have an increased wait time or demand.
97. In response to the draft consideration, CMTEDD explained a large proportion of the data is several years old which would have diminished the sensitivity of the information, in addition to removing any identifying details in the schedule.
98. CMTEDD also submitted it is possible to obtain fare estimates or fee schedules from rideshare providers, and for a population the size of the ACT it would not be difficult to gauge average prices simply using phone applications.
99. CMTEDD maintains it is not reasonable to assume the rideshare providers business strategy could be ascertained from release of this data and that it would prejudice their ability to make money.
100. Particularly in this industry, fare price, availability and service quality could contribute to the selection of a particular rideshare entity by a consumer. The performance information of transport booking services is not publicly available or otherwise reported by the regulator.
101. In my view, release of the hirings statistics and average fare price of the applicant and Uber could have a prejudicial impact on their business affairs. Release of the number of hires per month would reveal the market share between those rideshare providers and fluctuations in demand which would give competitors information about the scale of operations of different providers.

102. Similarly, release of the average fare price per month over an extended period could reasonably be expected to give competitors the ability to compare prices (and changes in fare pricing) between rideshare providers and gain an understanding of the profitability of those entities to potentially out compete them.

103. While I acknowledge it is possible for consumers to obtain real-time fare estimates and there are many factors affecting the average price of a fare (e.g. vehicle selection, kilometres travelled), release of the average fare price achieved by those entities for all fares in the relevant period would reveal detail which is not publicly available and could not be obtained using phone applications or information about fees published by the applicant or Uber.

104. It is reasonable to expect this information could give competitors who provide on-demand transport services the ability to identify gaps in demand and adjust their business strategy to capture greater market share or commence operations. I consider this information, broken down by individual provider, to be sensitive compared to the other performance data because it would reveal the actual proportion and average value of fares obtained by those providers.

105. In document 19, the number of hirings for each rideshare provider is presented by quarter and includes a quarterly and yearly total. I do not consider the release of the combined total number of hirings for all rideshare providers, by quarter and annually would prejudice the business affairs of the applicant or Uber. I consider release of the hirings data in document 19 by provider would be prejudicial in the same manner discussed above.

106. In the draft consideration, the former Senior Assistant Ombudsman considered the performance data covered the period January 2018– March 2024 being relatively current and where release could indicate pricing trends and how rideshare providers adjust fares in response to demand or time of year.
107. While part of the information is less than 3 years old, much of the data is historical. Further, I consider detail about wait times and customer satisfaction for each rideshare provider – while informative of performance, is not sufficiently detailed enough to support a finding there is a reasonable basis prejudice to their business affairs would occur.
108. In respect of wait times, the former Senior Assistant Ombudsman expressed in the draft consideration this could be used by a competitor to gain an advantage. I have assessed the data included in the TBS statistics and I do not consider it is reasonably likely release of data of this nature being monthly average wait times broken down by district is specific enough for a competitor to use this information to obtain a commercial advantage.
109. Wait times could be impacted by a number of factors including time of booking, originating location (which could vary significantly within those districts), number of passengers, vehicle availability and road diversions or works. While it may provide some insight into performance in a district over time, I do not consider it would prejudice the business affairs of the applicant or Uber.
110. In respect of customer satisfaction, the number of complaints and time taken to address complaints is not information which I consider would have a commercial value or reveal insight into the business strategies or operations of a rideshare provider. I note some rideshare providers display driver ratings and other service ratings to customers using their applications.

111. While it may have some minor reputational impact on those rideshare providers, or indicate at least a partial number of total fares (assuming each complaint concerns a single ride), I do not consider release of this information could reasonably be expected to result in a prejudicial effect on the business affairs of the rideshare providers.
112. I find this factor applies to the hirings statistics and average fare price in the TBS statistics and document 19 (excluding the performance information of Ola). I attribute significant weight to number of hirings and average fare prices of the applicant and Uber within this information.
113. I do not consider this factor applies to information about wait times and customer satisfaction statistics, or the combined total number of hirings in document 19 (combined by quarter and year).

Prejudice an agency's ability to obtain confidential information - Schedule 2, s 2.2(a)(xii)

114. A factor favouring nondisclosure is where release of information could prejudice an agency's ability to obtain confidential information.
115. In the decision notice and the schedule of documents provided to the FOI applicant, CMTEDD did not identify what information this factor relates to.
116. CMTEDD noted the statistical data was provided in confidence by rideshare entities and release of this confidential information could impede the agency's ability to obtain such information in future, and hinder good working relationships between the ACT Government and TBS industries.

117. I am not persuaded by this position as it is a requirement to provide performance data to the regulator under the service standards, and it is a strict liability offence for a person operating a regulated service to not comply.¹¹
118. I do not consider disclosure would result in transport booking services choosing not to comply with service standards and risk incurring a significant financial penalty.
119. I have found this factor does not apply.

Balancing the factors

120. Having identified public interest factors favouring disclosure and factors favouring non-disclosure, I now must consider the public interest balancing test set out in s 17 of the FOI Act.
121. In this matter, I identified 3 public interest factors favouring disclosure and I attribute minor weight to 2 these factors and moderate weight to one factor.
122. I considered 2 public interest factors favouring nondisclosure. I attribute significant weight to one public interest factor as it relates to the individual hirings statistics and average fare prices of the applicant and Uber.
123. I do not consider this factor favouring nondisclosure applies to the combined hirings statistics in document 19 (by quarter and year) and the average wait times and customer satisfaction data in the TBS statistics. I also find this factor did not apply to the performance information of Ola.
124. I find the other public interest factor favouring nondisclosure does not apply to the TBS statistics or document 19.

¹¹ [Road Transport \(Public Passenger Services\) Regulation 2002 \(ACT\)](#) s 20C.

125. Balancing public interest factors is not simply a case of quantifying the number of relevant factors for disclosure and non-disclosure, with the higher quantity being considered in the public interest. The decision-maker's task is to consider the relative importance and weight of each factor identified. The weight given to a factor will depend on the effect disclosing the information has on the public interest.

126. The FOI Act has a pro-disclosure bias,¹² and as a result, the public interest test should not be approached on the basis that there are empty scales in equilibrium, waiting for arguments to be put on each side. Rather, the scales are 'laden in favour of disclosure'.¹³

Conclusion

127. On balance, the public interest factors favouring nondisclosure outweigh the public interest in disclosing of the number of hirings and average fare prices for the applicant and Uber in TBS statistics and part of document 19.

128. On balance, I consider the public interest factors favouring disclosure outweigh the public interest factors favouring nondisclosure of the information about wait times and customer satisfaction data in the TBS statistics and the combined total hirings statistics in document 19.

Decision

129. For the reasons set out above in this decision, I vary the decision made by CMTEDD under s 82(2)(b) of the FOI Act.

130. I have decided to refuse access to the total number of hirings, number and percentage of hirings in peak periods and average fare prices in the TBS statistics (excluding the performance information of Ola).

¹² [FOI Act s 9.](#)

¹³ [Explanatory Statement, Freedom of Information Bill 2016.](#)

131. I have decided to give access to Ola's performance information, the wait times and customer satisfaction data in the TBS statistics and part of document 19, being the combined total hirings for each quarter and year.

Katrina Dwyer

Senior Assistant Ombudsman

30 July 2025