

Decision D0312001 – Published in note form only

***Re Inglis and Department of Industry and Technology* [2001] WAICmr 31**

Date of Decision: 6 September 2001

***Freedom of Information Act 1992*; Schedule 2, Glossary, clause 4, documents are documents of an agency.**

In June 1999, Channel 31 Community Educational Television Limited ('Channel 31') went to air. The station is a free-to-air television channel owed by a private consortium that includes the Curtin University of Technology, Edith Cowan University, The University of Western Australia and the State Government.

The complainant applied to the Department of Industry and Technology, formerly the Department of Contract and Management Services, ('the agency') for access under the *Freedom of Information Act 1992* ('the FOI Act') to certain documents, videotapes and audiotapes ('the requested documents') that may be held by the agency or held by an officer of the agency appointed as a director of Channel 31. The agency refused access to the requested documents on the ground that they are not documents of the agency.

The Information Commissioner made inquiries about the relationship between the Board of Management of Channel 31 and the agency. Those inquiries established that the agency did not hold any of the requested documents in its record-keeping system. Further, the particular officer of the agency who was also a director of Channel 31, had possession of certain documents relating to his activities as a director but he held those documents in his private capacity.

For reasons similar to those given by the Information Commissioner in *Re Inglis and Curtin University of Technology* [2001] WAICmr 27, the Information Commissioner confirmed the agency's decision to refuse access to the requested documents on the ground that the requested documents are not documents of the agency and the complainant has no right of access to those documents under the FOI Act.