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To: All Media

**FOR IMMEDIATE RELEASE**

**ICO issues Decisions 06/2020 and 07/2020**

Hamilton, Bermuda. Information Commissioner Gitanjali Gutierrez issued [Decision 06/2020, Regulatory Authority](#), on 24 July 2020, which considered an internal review decision by the Regulatory Authority (Authority) of a Public Access to Information (PATI) request for records relating to the Authority's 2015 Market Review of the telecommunications market, which was conducted by Deloitte. The requester sought records concerning the contract for the 2015 Market Review, including information about the cost for the incomplete review and the management of the contract.

[Decision 06/2020](#) looked at the reasonableness of a search conducted by the Authority in response to the PATI request as well as the Authority's reliance on the prejudice to negotiations exemption in section 25(1)(d) to deny access to six responsive records. Although the Information Commissioner found that the Authority's initial search was not reasonable, she is satisfied that the additional steps the Authority took during the Information Commissioner's review satisfied the reasonable search requirement in the PATI Act and Regulations.

The Information Commissioner disagreed with the Authority's decision that the responsive records should be withheld in their entirety. While accepting that there are parts of the records that should be withheld under the prejudice to negotiations exemption or the personal information exemption, the Information Commissioner concluded that the six records are not exempt for the most part and should be disclosed.

On 27 July 2020, Acting Information Commissioner Answer Styannes issued [Decision 07/2020](#) on Government House's refusal to provide access to records of its correspondence with the UK Foreign and Commonwealth Office (UK FCO), the US authorities, and the Bermuda Government on the four Uighur men who were transferred to Bermuda from Guantanamo Bay Naval Station in June 2009. The Acting Information Commissioner upheld Government House's refusal in part, because she agreed that the records of correspondence with the UK FCO and the US authorities contains inter-state confidential information. These records are exempt under section 32(1)(b) of the PATI Act and their public disclosure is not in the public interest.

In addition, the Acting Information Commissioner found that parts of the responsive Government House's records of correspondence with the Bermuda Government contain personal information of third parties. Disclosure of the third parties' personal information is not in the public interest.

[Decision 07/2020](#) further emphasizes that the exemption in section 37(1) of the PATI Act applies only to prohibitions on disclosure found in Bermuda statutory provisions.

Acting Information Commissioner Styannes has ordered Government House to disclose parts of its responsive correspondence that was with the Bermuda Government.

In [Decision 07/2020](#), the Acting Information Commissioner also determined that the PATI Act does not apply to six of the records responsive to the PATI request, because they were created or obtained by one of the public authorities listed in section 4(1)(b) and they are not records relating to general administration of that specific public authority.

Due to her prior work, Information Commissioner Gutierrez recused herself from the matter considered in Decision 07/2020. This is the third decision that dealt with a conflict of interest on behalf of Information Commissioner Gutierrez. In the absence of a provision in the PATI Act allowing the Information Commissioner to delegate her duties, the ICO managed this review independent of Commissioner Gutierrez and the Decision was made by an Acting Information Commissioner to avoid any appearance of bias.

Decisions [06/2020](#) and [07/2020](#) can be accessed online at [www.ico.bm](http://www.ico.bm).

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Editor's Notes:

The ICO is providing services to the public and other stakeholders during regular business hours. The ICO can be reached by visiting our offices at Maxwell Roberts Building, 4<sup>th</sup> Floor, One Church Street, Hamilton, or by calling 543-3700 or emailing [info@ico.bm](mailto:info@ico.bm).

The Information Commissioner's Office is an independent public office responsible for promoting the use of and overseeing compliance with the Public Access to Information (PATI) Act 2010. The PATI Act gives the public a right to access records held by public authorities, subject to listed exemptions and administrative grounds for denial of access. Individuals who are dissatisfied with the response of a public authority may seek a review by the Information Commissioner. The Information Commissioner shall investigate and the decisions by the Information Commissioner are legally binding.

Further information about the Information Commissioner's Office is available at [www.ico.bm](http://www.ico.bm).