



ASIC

Australian Securities & Investments Commission

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21 May 2013

Brendan Molloy  
Pirate Party Australia  
Email: [foi+request-114-1b26ac24@righttoknow.org.au](mailto:foi+request-114-1b26ac24@righttoknow.org.au)

Dear Mr Molloy

**Freedom of Information Request –  
Notice to Identify Documents under section 24AB of the FOI Act**

I refer to your email of 15 May 2013 seeking access to documents under the *Freedom of Information Act* 1982 (FOI Act). I confirm that your request seeks the following:

1. *Documents relating to the blocking of, filtering of or interference with the IP address 198.136.54.104, or any websites or services on said IP address; and*
2. *Documents relating to blocking of, filtering of or interference with any other website or IP address by ASIC.*

I advise that your request does not comply with section 15(2)(b) of the FOI Act as it does not provide enough information to enable me to identify the documents to which you seek access. Section 15(2)(b) states that a request must “provide such information concerning the document as is reasonably necessary to enable a responsible officer of an agency to identify it”. As section 15(2)(b) has not been met ASIC may, in accordance with section 24(1)(b) of the FOI Act, refuse to process your application.

In its current form, it would be my intention to refuse access to some of the documents sought in your letter. However to assist you to make a valid request I make the following comments.

The difficulties I have identified with your request relate to the following:

- *“Documents relating to blocking of, filtering of or interference with any other website or IP address by ASIC”*

I am unsure as to the documents to which you are referring to in this request. By way of example, your above request could be construed as including:

- (a) documents relating to all matters in which ASIC has discussed or proposed taking action in relation to a website, regardless of whether it ultimately took such action; and
- (b) documents relating to all matters in which ASIC has taken court action seeking orders relating to a website, regardless of whether they were granted or not.

If your request is intended to include the above categories of documents then I believe that the work involved in processing it would substantially and unreasonably divert ASIC's resources and, as such, should be refused under section 24AA(1)(a)(i) of the FOI Act. This is because such a request contains no date specification, would involve liaising with the whole of ASIC and require a review of all ASIC files.

If this was not your intention, could you please provide more information regarding the documents you are looking for and/or a reasonable date range.

### **Charges for providing access**

You should be aware that while the first 5 hours of decision making in respect to FOI requests is free of charge ASIC is entitled to charge for searching and retrieval of documents and decision making time in excess of 5 hours. Careful attention to the terms of the request can significantly reduce the provision of unrequired documents and thereby impact substantially upon the cost of the request.

I note that you have requested a waiver of any charges that may be payable for this request. At this time, I have not considered whether a charge will in fact be payable for your request. However if I do so decide a charge is payable, I will notify you in writing at which time you may apply in writing for the charge to be corrected, reduced or waived under section 29(4) of the FOI Act. Your application will need to be made within 30 days of receiving the notice and should set out your reasons for contending that the charge be waived.

### **Timeframe for dealing with a request**

As a general rule, an application must be processed within 30 days. However, please note that in accordance with section 24AB(8) of the FOI Act, the time for processing your request is suspended from the day that you receive this letter and resumes on the day after ASIC receives from you a request in writing which contains sufficient information to identify the documents required.

### **Consultation**

You may wish to contact me by email at [anne.gubbins@asic.gov.au](mailto:anne.gubbins@asic.gov.au) or telephone on (07) 3867 4871 for assistance in making your request in a revised form which removes the grounds for refusal. Should you wish to consult with me for this purpose, you are required to contact me within 14 days after the date that you receive this letter.

Please note that following any consultation, should you wish to amend the terms of your request, you are required, in compliance with section 15(2)(a) of the FOI Act to confirm in writing the terms of such amended request.

Pursuant to section 24AB(6) of the FOI Act, before the end of the consultation period you are required to have done one of the following

- (a) withdrawn the request;
- (b) made a revised request;
- (c) indicated that you do not wish to revise the request

Should I not hear from you in respect to the clarification of the terms of your request within 14 day after the date of this letter your request will, in accordance with sections 24AB(6) and s24AB(7) of the FOI Act, be taken to be withdrawn.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'Anne Gubbins', with a long horizontal flourish extending to the right.

Anne Gubbins  
(Authorised Decision-maker under section 23(1) of the FOI Act)  
For the Australian Securities and Investments Commission