



ASIC

Australian Securities & Investments Commission

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Our Ref: PCS2013/01779

5 July 2013

Jason Brooks

By email: foi+request-122-55f4aa33@righttoknow.org.au

No of pages: 6

Dear Mr Brooks,

Request Pursuant to the Freedom of Information Act 1982 for Access to Documents

I refer to your email of 30 May 2013, received by ASIC on 31 May 2013, containing a request for documents in the possession of the Australian Securities and Investments Commission (ASIC). On 11 June 2013 ASIC received your amended request for documents in the possession of ASIC made under the *Freedom of Information Act 1982* (Cth) (FOI Act).

I confirm that your amended request seeks access to documents answering the following description:

“A copy of the document or documents that record any final review findings made about ASIC Connect business names service post its implementation and launch in May 2012. This document or documents may take the form of:

- A project Closure Report/Review
- A Post Implementation review
- A Benefits Realisation Report” **(your request).**

The Decision

I am the authorised decision-maker for the purposes of section 23(1) of the FOI Act and this letter gives notice of my decision.

I have identified one document as coming within the terms of your request. The document is an internal ASIC document dated 31 January 2013 completed at the conclusion of ASIC’s Business Names Project **(the identified document).**

Partially released document

I advise that I have decided to release the identified document with deletions on the grounds that the deleted portions of the document are either:

- exempt from release for the reasons set out below under the heading “Exemption” or
- contain information that is irrelevant to your request on the basis set out under the heading “Deletion of irrelevant matter”.

A copy of the identified document with deletions is provided with this letter. The deleted portions appear on pages 1, 2, 3, 5, 9, 10, 14 & 16 of the identified document. The deleted portions indicate the basis on which the deletions have been made.

Exemption

I advise that I have decided not to release the names of the authors of the identified document pursuant to your request on the grounds that this information is exempt from release for the following reason:

Conditionally exempt under section 47F of the FOI Act –personal information

Section 47F(1) of the FOI Act states

“A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).”

“Personal Information” is defined in section 4 of the FOI Act to mean information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

The identified document contains the names of the ASIC officers who prepared the identified document. I am satisfied that this information is “personal information” as defined in section 4 of the FOI Act. These persons were ASIC officers at the time that the identified document was prepared. As these persons are no longer employed by ASIC, I consider that release of their names would be unreasonable.

As required by section 47F(2) I have had regard to the following matters:

- a) the extent to which the information is well known;
- b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- c) the availability of the information from publicly assessable sources;
- d) any other matters that the agency or Minister considers relevant.

As stated above, disclosure of the identified document would reveal the identities of the ASIC officers who prepared the identified document and who are no longer employed by ASIC. This information has not otherwise been disclosed and is not otherwise public knowledge. Further, the persons are not publicly known to be or to have been associated with the matters in the identified document. In the circumstances, I am of the view that the disclosure of this information would be unreasonable.

I find therefore that the deleted portions of the identified document occurring on page 1 with the notation "Exempt under s 47F(1) FOI Act" are conditionally exempt pursuant to section 47F(1) of the FOI Act.

Public interest

The FOI Act provides that access must be given to a conditionally exempt document unless in the circumstances access would, on balance, be contrary to the public interest.

As required by section 11A of the FOI Act I have considered whether release of the deleted portions of the identified document would, on balance, be contrary to the public interest.

In particular, I have had regard to the following factors outlined in section 11B(3) as being factors favouring access to the deleted portions of the identified document in the public interest:

1. Access to the document would promote the objects of the FOI Act (including all matters set out in sections 3 and 3A).

The objects of the FOI Act include promoting accountability and transparency in government decision making and effective oversight of public expenditure. In this case, the release of the identified document supports the objects of the FOI Act by making available information which concerns government agency decision making. In my view releasing the names of the authors of the identified document does not further promote the objects of the FOI Act in this regard.

2. Access to the document would inform debate on a matter of public importance.

I do not find that disclosure of the names of the authors of the identified document would inform debate on a matter of public importance.

3. Access to the document would promote effective oversight of public expenditure.

I do not find that disclosure of the names of the authors of the identified document would promote effective oversight of public expenditure as this information does not relate to matters of public expenditure.

4. Access to the document would allow a person to access his or her personal information

I do not find that disclosure of the names of the authors of the identified document would allow you to access your personal information.

Accordingly I do not find that any of the above factors favour access to the deleted portions of the identified document in the public interest.

In my view disclosure of the names of the authors of the identified document would, on balance, be contrary to the public interest. Accordingly, I find that this information is exempt from release under section 47F(1) of the FOI Act.

Section 22 - Deletion of exempt and irrelevant matter

Section 22 of the FOI Act provides that where an agency or Minister decides not to grant access to a document on the ground that it is an exempt document or that it discloses information that would reasonably be regarded as irrelevant to a request and;

- It is possible for the agency or Minister to make a copy of the document with such deletions that the copy would not be an exempt document; and
- It is reasonably practicable for the agency or Minister, having regard to the nature and extent of the work involved in deciding on and making those deletions and resources available for that work, to make such a copy,

the agency or Minister shall, unless it is apparent from the request or as a result of consultation by the agency or Minister with the applicant, that the applicant would not wish to have access to such a copy, make, and grant access to, such a copy.

I have considered whether, pursuant to section 22 of the FOI Act, it is possible to release the identified document with deletions such that the documents would no longer be exempt or with deletions that would disclose information irrelevant to your request.

Deletion of exempt matter

I have found that parts of the identified document are exempt pursuant to section 47F(1) of the FOI Act on the basis that they name the authors of the document who are no longer employed by ASIC. However, I have found that it is possible to release the identified document subject to deletions such that the document would no longer be exempt. A copy of the identified document with the exempt portions deleted (on page 1) is provided with this decision. These deletions appear with the notation "Exempt under s 47F(1) FOI Act".

Deletion of irrelevant matter

I have found that the identified document contains information which falls outside the scope of your request and is therefore considered irrelevant to your request. However I have found that it is possible to release the identified document modified by deletions such that the document would not disclose irrelevant matter.

Your request seeks access to final review findings made about ASIC Connect business names service. The following information is deleted from the identified document as irrelevant on the basis that it does not contain final review findings:

- information concerning interim review findings made about the implementation and administration of ASIC Connect Business Names Service and;

- information containing interim financial data concerning the implementation and administration of ASIC Connect Business Names Service.

A copy of the identified document with the irrelevant portions deleted (on pages 1, 2, 3, 5, 9, 10, 14 & 16) is enclosed with this decision. These deletions appear with the notation "Deleted as irrelevant under s 22 FOI Act".

Assessment of Charges

The FOI Act provides that charges may be assessed for time spent processing your request. There are no charges applicable to the processing of your request in this instance based on the following assessment:

Search and retrieval time	minimal – no charge	=	\$	NIL
Decision making time*:	5 hours x \$20.00 per hour	=	\$	100.00
Photocopying :	minimal – no charge=	=	\$	NIL
Postage:	minimal – no charge	=	\$	TBA
Subtotal:		=	\$	100.00
Minus 1 st 5 hours of decision making time*				-\$ 100.00
Total		=	\$	NIL

** The Freedom of Information (Charges) Regulations 1982, as amended on 1 November 2010, provide that the first 5 hours of decision making time is free.

Review Rights

I provide you with the following information as required by section 26 of the FOI Act.

In the event that you are dissatisfied with the decision you can apply for internal review or Information Commissioner Review. You do not have to apply for internal review before seeking Information Commissioner review.

Internal Review

You may, within 30 days after the day on which you have been notified of this decision, apply in writing for an internal review of this decision pursuant to section 54B of the FOI Act. Any internal review will be conducted by another ASIC officer.

Information Commissioner review

Alternatively you may, within 60 days of being given notice of the decision, apply in writing for review by the Information Commissioner. In making your application you need to provide an address for notices to be sent (this can be an email address) and a copy of this decision.

Right to complain

You may make a written complaint to the Information Commissioner under Part VIIB of the FOI Act about action taken by ASIC in relation to your application.

The Information Commissioner may be contacted on Tel: 1300 363 992 or by Fax on (02) 9284 9666. There is no particular form required to make a complaint but you should set out the grounds on which you consider the action should be investigated.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mirijana Soldatic', with a long horizontal stroke extending to the right.

Mirijana Soldatic

(Authorised decision-maker pursuant to sub-section 23(1) of the FOI Act)