



Australian Government
Attorney-General's Department

FOI15/238; 15/17142

17 December 2015

Mr Michael Galbraith

By email: foi+request-1413-2af1e54b@righttoknow.org.au

Dear Mr Galbraith,

Freedom of Information Request FOI 15/238

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) for access to documents relating to the *Telecommunications (Interception and Access) Act 1979* (Cth) (“TIA Act”).

I, Samuel Grunhard, Acting Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

I am writing to advise you that I believe that the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations due to its size and complexity. This is called a ‘practical refusal reason’ (section 24AA).

On this basis, I intend to refuse access to the documents you requested. However, before I make a final decision to do this, you have an opportunity to revise your request. This is called a ‘request consultation process’ as set out in section 24AB of the FOI Act. You have 14 days to respond to this notice in one of the ways described below.

Why I intend to refuse your request

In your request you sought documents relating to:

1. *Data retention implementation plans approved under s187F of the Telecommunications (Interception and Access) Act 1979 (Cth) (“Act”).*
2. *Any correspondence with service providers as a result of a decision under s187F(1)(a)-(b) of the Act.*
3. *Any correspondence related to s187G(1)(b) of the Act.*
4. *Any correspondence to or from the service provider related to s187G(2)(c) of the Act.*

I decided that a practical refusal reason exists because I am satisfied that processing this request in its current form would substantially and unreasonably divert the resources of the department from its other operations.

In coming to this decision, I have considered the elements to which I must have regard under section 24AA(2) of the FOI Act, including the resources that would be used for:

- identifying, locating or collating the documents within the filing system of the agency
- deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document (including resources that would have to be used for examining the document or consulting with any person or body in relation to the request)
- making a copy or an edited copy, of the document

- notifying any interim or final decision on the request.

A search of the department's electronic document management system returned approximately 375 documents which are likely to be within the scope of parts 1, 2 and 4 of this request.

There will be additional documents within part 3 of your request, but due to the size and estimated processing time for parts 1, 2 and 4 of your request (as outlined below), it is not necessary to include part 3 for the purposes of this notice.

In order to decide whether a practical refusal reason exists in relation to your request, I organised for a random sample of those documents to be examined. A sample of 10 documents (totalling 307 pages) within the scope of part 1 of your request, and 20 documents (totalling 30 pages) within part 2 was examined. Any documents falling within part 4, will also be included in the scope of part 2 of your request.

Based on examination of that sample of 30 randomly chosen documents, totalling 337 pages, I estimate that:

- There are approximately 3,044 pages contained in the 375 documents likely to be within scope.
 - There are estimated to be 85 documents within the scope of part 1, and 290 documents within the scope of part 2.
 - The estimate of 3,044 pages is based on part 1 having an average document size of 30.7 pages, and part 2 having an average document size of 1.5 pages.
 - It would take approximately 254 hours to examine the estimated 3,044 pages for decision making (based on an estimate of 5 minutes per page).
- It is likely that exemptions would apply to these documents, including: material obtained in confidence (section 45), documents disclosing trade secrets or commercially valuable information (section 47), public interest conditional exemption - business (s47G).
- Of the sampled documents, exemptions were assessed as applying to all 30 of the documents sampled. Based on that sample, I estimate that 2,892 (95%) of the 3,044 estimated total pages would require redactions. It would take approximately 241 hours to redact exempt material in the documents, (based on an estimate of 5 minutes per page).
- It would take approximately 18.75 hours to prepare a schedule detailing all relevant documents (based on an average of 30 minutes per 10 documents).
- It would take approximately 6 hours to prepare a statement of reasons for the request.

In addition, there are approximately 145 third parties to consult. Based on an estimate of 2 hours consultation time for each third party, I estimate that consultations would take approximately 290 hours.

Taking all of these factors into account, I estimate processing your request would require in excess of 800 hours of time of officers of the department. I am satisfied processing this request would substantially and unreasonably divert the department's resources from its operations.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed.

Revising your request can mean narrowing the scope of the request to make it more manageable or explaining in more detail the documents you wish to access. For example, by providing more specific information about exactly what documents you are interested in, we will be able to identify

the documents more quickly and avoid using excessive resources to process documents that are not of interest to you.

Some suggestions about how you could narrow the scope of your request are:

- Choose only 1 of the 4 parts of your request to continue with.
- Narrow your request to a small number of examples under s187F(1)(a) and 187F(1)(b).
- Reduce the scope to a specified date range.

If you revise your request we will let you know whether the practical refusal reason has been removed.

Even if the practical refusal reason is removed and the request is able to be processed, it is likely that a large proportion of the documents within scope will have significant redactions and access to some may be refused. For example, section 187L of the TIA Act states that applications received under section 187E must be treated as confidential, and disclosure of the documents requires the written permission of the service provider. Therefore, any documents within part 1 of your request as well as any references to applications in decision letters sent under section 187F(1)(a)-(b), are unlikely to be disclosed unless the relevant business organisation agrees to disclosure of the material.

Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request
- make a revised request
- tell us that you do not wish to revise your request.

The consultation period runs for 14 days and starts on the day after you receive this notice.

During this period, you are welcome to seek assistance from the contact person I have listed below to revise your request. If you revise your request in a way that adequately addresses the practical refusal grounds outlined above, we will recommence processing it. Please note that the time taken to consult you about the scope of your request is not included in the 30 day time limit for processing your request.

If you do not undertake one of the three options listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

Contact officer

If you would like to revise your request or have any questions, please contact Siobhan, the FOI case manager by telephone on (02) 6141 6666 or by email foi@ag.gov.au.

Yours sincerely



Samuel Grunhard
Acting Assistant Secretary