



Australian Government

Department of Communications and the Arts

Ms Sarah Facer

By email: foi+request-1649-7a1719b6@righttoknow.org.au

Dear Ms Facer

Freedom of Information Request No. 37-1516 – Notice under section 24AB

I refer to your email of 26 February 2016 to the Department of Communications and the Arts (**Department**) seeking access under the *Freedom of Information Act 1982 (FOI Act)* to:

“...data and correspondence pertaining to National Broadband Network related complaints from July 2010 until the present”.

I am an authorised decision-maker under section 23 of the FOI Act.

I am writing to you pursuant to subsection 24AB(2) of the FOI Act to notify you of my intention to refuse your FOI request on the basis that I am satisfied that a practical refusal reason under subsection 24AA(1) exists. The potential scope of your FOI request means that the work involved in processing the request would substantially and unreasonably divert the resources of the Department from its other operations.

Processing this FOI request as currently worded would involve a significant number of items of correspondence relating to NBN Co Limited (**nbn**) from the past six years, which would constitute a substantial and unreasonable diversion of the resources of the Department.

nbn is a separate entity for the purposes of the FOI Act and you may of course make a separate FOI request to **nbn** if you so wish.

In order to provide you with information that would assist you to withdraw or revise your request, I have set out below some information about the processes for managing **nbn** complaints.

nbn is building the National Broadband Network at arm's length from the Australian Government. The corporation has its own Board of Directors subject to the *Corporations Act 2001*. Senior Managers report to the Board and are ultimately responsible for **nbn**'s day-to-day management and operations, including oversight of the activities of **nbn** contractors and processes for managing **nbn** complaints. As a result, the Department has no role in managing complaints related to the **nbn**.

nbn's complaint management policy is available at www2.nbnco.com.au/content/dam/nbnco/documents/complaint-management-policy.pdf

As a wholesale provider, **nbn** has no contractual or customer service relationship with end-users of **nbn** services. Instead, the telecommunications retail service providers that sell **nbn** services to the end user are responsible for briefing customers about **nbn** installations and the relevant goods and services delivered over the network.

Accordingly, **nbn** end-users are encouraged to raise any quality and performance issues with their retail service provider. The provider then determines whether the issue lies with the **nbn** network and if so, logs a complaint with **nbn** on the customer's behalf. Every logged issue is investigated by **nbn**.

If end-users remain dissatisfied with response they receive after making a complaint, they can contact the Telecommunications Industry Ombudsman (TIO) for assistance. The TIO is a free and independent alternative dispute resolution body for small business and residential consumers in Australia with unresolved complaints about their telephone or internet services. The TIO aims to settle disputes quickly in a fair, objective and non-bureaucratic way, having regard not only to the law and to good industry practice, but also to what it considers is fair and reasonable in all the circumstances. I have enclosed a fact sheet on the role of the TIO, including its contact details, for your information.

The TIO publishes quarterly complaint statistics on its website. The most recent TIO report covering the period October-December 2015 is available at www.tio.com.au/publications/statistics.

The report shows that during the past twelve months, the number of premises connected to the **nbn** increased by 128 per cent but "**nbn**-related" complaints only rose by 40 per cent and were down 3.8 per cent from the previous quarter. In addition, more than 90 per cent of the complaints recorded in the quarter were resolved after the TIO referred them back to the service provider.

Given this background and the information that is publically available, you may wish to withdraw or narrow the scope of your initial request.

Before making a decision to refuse your request on the above grounds, I am required to consult with you and provide you with an opportunity to make submissions in support of your request, or to clarify or revise the scope of your request. Any submissions should be sent in writing to the FOI Officer at foi@communications.gov.au or to the following address:

FOI Officer
Department of Communications and the Arts
GPO Box 2154
CANBERRA ACT 2601

You may consult with the FOI Officer and make submissions within 14 days after the date of this letter, i.e. 25 March 2016. Before the end of this period, you must do one of the following in writing:

- withdraw your request;
- make a revised request; or
- indicate that you do not wish to revise your request.

If you do not contact the FOI Officer or do one of the things mentioned above in writing within this period, your FOI request will be taken to have been withdrawn and will not be dealt with any further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'C. Swain', with a long horizontal flourish extending to the right.

Christopher Swain
Legal Director
Office of the General Counsel
11 March 2016