

1 April 2016

Ashley Flockhart

By email: foi+request-1768-775db94a@righttoknow.org.au

Dear Ashley

Request for access to documents under the *Freedom of Information Act 1982*

I refer to your Freedom of Information Act (FOI Act) request dated 27 March 2016, in which you sought access to:

a document with the total number of page views for every news post online in The Age newspaper for the past two years. Preferably, it should be broken down into months.

I confirm that I am an authorised decision maker within the meaning of section 23 of the FOI Act.

Decision on access

I have decided to refuse your request to documents identified in your FOI request in accordance with subsection 24A(1) of the FOI Act.

Subsection 24A(1) provides as follows:

‘An agency or Minister may refuse a request for access to a document if:

- (a) all reasonable steps have been taken to find the document; and
- (b) the agency or Minister is satisfied that the document:
 - (i) is in the agency’s or Minister’s possession but cannot be found; or
 - (ii) does not exist.’

The reasons for my decision, the findings on material questions of fact and the material on which those findings were based are set out below.

Reasons for the decision

The ACMA is responsible for the regulation of broadcasting, the internet, radiocommunications and telecommunications, in accordance with the functions and responsibilities set out in Part 2, Division 2 of the *Australian Communications and Media Authority Act 2005* (the ACMA Act).

Although the ACMA does have some functions in respect of online content, specifically certain kinds of *prohibited* online content, it does not collect statistics on page views generally, nor specifically for The Age newspaper’s online news stories.

I conducted searches of the ACMA's electronic file management systems using search terms corresponding to your request, but I found nothing that was relevant to your request.

You should also note that the ACMA does not have any functions in connection with print or newspaper journalism generally (in contrast to the functions it does have with respect to broadcasting content, including rules about commercial free-to-air news and current affairs programming).

Further, I note that the FOI Act gives applicants a right of access to existing documents, not information. As stated in the FOI Guidelines (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-2-scope-of-application-of-the-freedom-of-information-act>):

2.29 The right of access is to existing documents, rather than to information. The FOI Act does not require an agency or minister to create a new document in response to a request for access, except in limited circumstances where the applicant seeks access in a different format or where the information is stored in an agency computer system rather than in discrete form (see Part 3 of these Guidelines). A request may nevertheless be framed by reference to a document that contains particular information.

Findings

Having regard to the nature of the documents requested, I am satisfied, in accordance with paragraph 24A(1)(a) that all reasonable steps have been taken to find any relevant documents that might fall within the scope of your request. Accordingly, I am satisfied, in terms of subparagraph 24(1)(b)(ii), that no documents exist that fall within the scope of your request.

I have therefore decided to refuse your request for access to the document identified in your FOI request in accordance with subsection 24A(1) of the FOI Act.

Your rights of review

Please find enclosed the ACMA's Information Sheet entitled *Freedom of Information Act 1982 – Rights of Review*.

If you have any questions in this regard please contact me on (03) 9963 6898 or at chris.herscovitch@acma.gov.au.

Yours sincerely

Chris Herscovitch
Senior Lawyer
Legal Services Division