



**Australian Government**  
**Department of Foreign Affairs and Trade**

FOI Number: 1302-F501  
File Number: 12/16568

22 March 2013

Mr Brendan Molloy  
Secretary  
Pirate Party Australia  
E-Mail: [foi+request-18-db63711e@righttoknow.org.au](mailto:foi+request-18-db63711e@righttoknow.org.au)

Dear Mr Molloy,

I refer to your e-mail dated 12 March 2013 seeking an internal review of a decision by Dr Ada Cheung, acting Director Freedom of Information & Privacy Law Section, in relation to your request for waiver of the fee for your FOI request on the grounds of public interest. Dr Cheung's decision was in relation to your request under the provisions of the *Freedom of Information (FOI) Act 1982* for:

*PPQs and Senate Estimates Briefings, and briefings prepared for meetings with various stakeholders on the Australian Government's position on the current negotiating text of the Trans Pacific Partnership Agreement -Intellectual Property chapter.*

I am authorised under section 23 of the FOI Act to conduct a review of Dr Cheung's decision on your request for a fee waiver, and have been appointed to be the decision-maker on your request as required by departmental procedures. I had no part in the original decision making process.

**Decision**

I have considered the matter, taking account of the reasoning expressed in Dr Cheung's letter of 8 March to reduce the original charges estimate by 50%, as well as the comments which you have provided. I have decided that the decision to reduce the costs by 50% is a reasonable one in the circumstances, and I have decided to uphold it.

**Material considered**

The material on which my decision is based includes:

- the request;
- the FOI Act;
- the Guidelines issued by the Office of the Australian Information Commissioner (OAIIC) under section 93A of the FOI Act;

- the decision by Dr Cheung; and
- the views of the Office of trade Negotiations, DFAT.

### **Reasons for my decision**

Your request for a fee waiver was based on grounds of the public interest. I have balanced the public interest arguments you have submitted with the broader public interest in the economic sustainability of the FOI system. I note that the processing of your request will engage the resources of the Department and it is also in the public interest that this cost to the Australian taxpayer is recovered to some extent.

On balance, I consider the public interest factors you put forward have been appropriately reflected in the decision to reduce the original charges estimate by 50%.

I uphold Dr Cheung's decision to reduce the charges estimate by 50% from \$390.66 to \$195.33.

I also exercise my discretion to grant you a further 30 day period from the date of this letter in which to pay the deposit of **\$48.83**.

### **Elements taken into consideration**

OAIC Guidelines 4.51-4.56 concerning public interest state that there is no presumption that the public interest test is satisfied by reason only that the applicant is a community or non-profit organisation.

### **Your review rights**

#### *Australian Information Commissioner*

Under the provisions of section 54 of the FOI Act, you are entitled to request a review by the Australian Information Commissioner of my decision. You may also make a complaint to the Australian Information Commissioner under section 70 on the Minister's Office's performance of its functions or the exercise of power under the FOI Act.

Your request for review or complaint should be directed to:

GPO Box 2999, Canberra ACT 2601  
Telephone: 1300 363 992  
Fax: (02) 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

#### *Complaints to the Commonwealth Ombudsman*

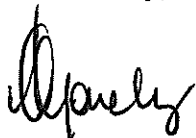
You may complain to the Ombudsman concerning actions taken by an agency in the exercise of its powers or, more specifically, the performance of its functions under the FOI Act. There is no fee for making a complaint. The Ombudsman will conduct an independent investigation of your complaint.

You may complain to the Ombudsman by calling or writing to:

Commonwealth Ombudsman	Telephone: 1300 362 072
GPO Box 442	Fax: (02) 6249 7829
Canberra ACT 2601	

Should you have any queries regarding this matter please contact FOI case officer, John Scott, on (02) 6261 3212.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Gorely', written in a cursive style.

Amanda Gorely  
a/g Senior Legal Adviser  
International Legal Division

