



23 Marcus Clarke Street
Canberra ACT 2601

GPO Box 3131
Canberra ACT 2601

Our ref: #1002210
Contact officer: William Herron
Contact phone: 02 6243 1244

tel: (02) 6243 1111
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1 May 2017

www.accc.gov.au

JS

Sent via email to: foi+request-3216-6866dde6@righttoknow.org.au

Dear JS

ACCC review of estimate of charges associated with freedom of information request

I refer to your email dated 19 April 2017 in which you state that the charges estimate in relation to your freedom of information request was incorrectly calculated.

I am authorised to make decisions regarding FOI charges under s.23 of the FOI Act. I have considered your submissions and have revised our estimate of the applicable charges.

Reasons for decision and revised estimate of charges

In the ACCC's letter to you of 21 March 2017, we provided you with an estimate of \$82.30.

Your email of 19 April 2017 outlined the reasons you considered this estimate to be excessive.

Taking account of your email, I have decided to revise our estimate due to the reduced amount of time allocated to preparing and copying the documents as well as the reduced amount of time allocated to examining the documents, consulting third parties and making the decision.

Revised estimate of charges

In accordance with s.29 of the Act, my revised preliminary assessment of the charge is \$34.80. This estimate includes approximately 1 hour preparing and copying the documents covered by your request and preparing schedules. It also includes 5 hours examining the documents, consulting third parties and making a decision. This has been reduced from 7 hours in view of the previous third party consultations and decision. There are approximately 18 documents within the scope of your request.

It is expected that 4 third parties need to be consulted. The recommended time for this task is two hours per party, and we have reduced this time substantially in view of previous consultations undertaken.

As the charge exceeds \$25, a deposit of 25 percent of the estimate is required in order for your request to proceed. If you agree to pay the revised estimated charge as assessed above, you should forward the deposit of \$8.70.

We calculated the estimate of the charge as required in the *Freedom of Information (Charges) Regulations 1982*. You may only be required to pay a higher charge if more work is involved than we anticipated and we give full access to all of the documents sought. If the final charge is less than the estimate, you will only have to pay the lesser amount. **Please note you will be liable to pay the balance of the charge regardless of the decision made in relation to the documents.**

What you are required to do

Within 30 days of receipt of this notice, you are required to either:

- (a) agree to pay the charge and forward the deposit; or
- (b) lodge a review application; or
- (c) withdraw your request.

How to pay the deposit

You can pay the deposit by cheque, electronically or online.

To pay by cheque, please forward the cheque to:

Freedom of Information
GPO Box 3131
CANBERRA ACT 2601

To pay electronically, please use the following information:

Account Name: ACCC Official Departmental
BSB: 032 730
Account: 146593
Reference: #1002210

To pay online, please go to www.accc.gov.au/payments. In the payment type please select **Freedom of Information request**. In the payment description please include #1002210.

Timeframes

In accordance with sections 15 and 31 of the FOI Act, the 30 day limit for processing your request remains on hold until:

- You pay the deposit sought or on review; or
- A review decision is made with the effect that a charge is not imposed.

Review rights

Attachment A to this letter outlines your rights of review.

Documents released in response to FOI requests

In your email of 19 April 2017 you also state that the *'content of your letter is not consistent with the following statement that is published on the ACCC website "Freedom of Information Act 1982 all documents released in response to FOI requests, made on or after 1 May 2011, are now available for download".'*

This statement is incorrect, the actual wording on the ACCC FOI website is *'Under the Freedom of Information Act 1982 certain documents released in response to FOI requests, made on or after 1 May 2011, are available for download.'*

Under s.11C of the FOI Act, the ACCC must publish documents it releases to FOI applicants except information of the following kinds:

- personal information about any individual, if it would be unreasonable to publish the information;
- information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information;
- other information of a kind determined by the Information Commissioner under subsection (3), if it would be unreasonable to publish the information.

Please contact me on 02 6243 1244 if you have any questions in relation to this matter.

Yours sincerely



Will Herron

FOI Coordinator
ACCC Legal Group

Sent by email 1/05/2017

ATTACHMENT

INFORMATION ON RIGHTS OF REVIEW OF COST ESTIMATE

1. ACCC Internal Review

This cost estimate is a preliminary assessment of expected charges. Please note that the Australian Competition and Consumer Commission (ACCC) will only charge you for the time actually spent processing your application. This estimate works as a cap of these charges. You may only be required to pay a higher charge if more work is involved than we anticipated and we give full access to all of the documents sought.

If you do not agree with the decision regarding revising the charges, please write to the ACCC within 30 days of receipt of this letter indicating that you seek an internal review of this decision.

If you make an application for review, an officer of the ACCC (not the person who made this decision) will conduct a review and make a completely fresh decision in regards to the charges.

There is no charge payable for requesting an internal review. No particular form is required to apply for review. You will need to set out in the application the grounds on which you consider that we should change our decision.

Please send any correspondence to:

FOI Coordinator

Australian Competition & Consumer Commission

GPO Box 3131

Canberra ACT 2601

If you make an application for internal review and we do not make a decision within 30 days or such further period as the IC allows, the original decision is considered affirmed. In such circumstances, you can seek review of our deemed decision by the IC.

2. Review by the Information Commissioner

You may ask for a review of a decision by the Australian Information Commissioner (IC). You do not have to go through our internal review process first for this process. If we refuse access on internal review, you can still seek IC review for the internal review decision.

You must apply in writing and you can lodge your application in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: enquiries@oaic.gov.au

If you disagree with the Information Commissioner's review decision, you can appeal to the Administrative Appeals Tribunal (AAT).

The Tribunal is a completely independent review body with the power to make a fresh decision. A filing fee of \$861.00 (as at 1 July 2014) should accompany your application unless you are granted legal aid or you come within an exempt category of persons (check with the Tribunal registry in your State). The Registrar or Deputy Registrar may waive the fee on the ground that its payment would impose financial hardship on you. The fee may be refunded if you are successful.

3. Complaint to the Information Commissioner

You may complain to the Information Commissioner regarding the ACCC's actions in connection with the cost estimate prepared in relation to your FOI request.

You must lodge your complaint in writing and do so in one of the following ways:

Online: www.oaic.gov.au

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: enquiries@oaic.gov.au