



FOI17/070; 17/4635

17 May 2017

Mr Rodney Malone

By email: [foi+request-3419-153373d8@righttoknow.org.au](mailto:foi+request-3419-153373d8@righttoknow.org.au)

Dear Mr Malone

### **Freedom of Information Request FOI17/070**

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) for access to documents relating to Data Retention Implementation Plans, specifically the following:

*After the passage of metadata retention law, I would like to request documents which indicate which internet service providers as well as telecommunication companies (please indicate all companies including if known under a different name also) had sought an extension to implement the retention scheme. If yes, please indicate the until when the extension was granted before 12 April 2017.*

On 1 May 2017, in acknowledging your request the Attorney-General's Department (the department) advised you that it has interpreted your request to mean the following:

*Documents listing the names of telecommunications service providers that submitted a Data Retention Implementation Plan (DRIP) to the Communications Access Co-ordinator (CAC) after 26 March 2015 (date of passage of the Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015) and, if these are provided, corresponding DRIP expiry dates (if they occurred before 12 April 2017).*

I, Anne Sheehan, Assistant Secretary, am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests made to the department.

I am writing to advise you that I consider 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 the size and scope of your request. This is called a 'practical refusal' reason (section 24AA).

On this basis, I intend to refuse access to the documents you have requested. However, before I make a final decision to do this, you have the 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 determining that a practical refusal reason exists I have had regard, as required under subsection 24AA(2) of the FOI Act, to the resources that would have to 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 edited copy, of the document, and
- notifying any interim final decision on the request.

I have decided that a practical refusal reason exists because a large number of documents fall within the scope of your request. A search of the department's electronic document management system returned approximately 2100 documents, which are likely to be within the scope of your request as it currently stands.

When deciding whether a practical refusal reason exists in relation to your request, I organised for sampling to be conducted for a random sample of the documents identified as relevant to your request. Based on examination of a sample of 36 randomly chosen documents, I estimate that:

- there are approximately 11500 pages contained in the 2100 documents likely to be within the scope of the request
- it would take approximately 950 hours to examine the documents for decision-making (based on an estimate of 5 minutes per page)
- it appears that there are exemptions in the following categories that would also need to be considered:
  - documents affecting national security, defence or international relations (section 33)
  - documents containing material obtained in confidence (section 45)
- it would take approximately 100 hours to prepare a schedule detailing all relevant documents (based on an average of 30 minutes per 10 documents).

Taking all of these factors into account, I am satisfied that processing your request in its current form 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.

You could consider one or more of the following options to reduce the scope of your request:

- reducing the relevant period of your request
- if possible, identify particular documents you are interested in
- if possible identify categories of documents you are interested in (e.g. correspondence, briefings, advice), and/or
- narrow your request by excluding certain categories of documents (e.g. draft documents).

In addition I note that pursuant to section 187L of the *Telecommunications (Interception and Access) Act 1979* (TIA Act) the Communications Access Co-ordinator must:

- a) *treat each received DRIP as confidential; and*

b) *ensure that a DRIP is not disclosed to any other person or body without the written permission of the relevant telecommunication provider.*

Before the end of the consultation period, I ask that you do one of the following, in writing:

- withdraw your request
- make a revised request, or
- tell the department that you do not wish to revise your request.

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

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 do one of the three things 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 Alex, FOI case officer, at [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely



Anne Sheehan  
Assistant Secretary