



Australian Government

Department of Finance and Deregulation

Reference: FOI 13/12
Contact: FOI team
Telephone: 02 6215 1783
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Dr Janice Duffy
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Dear Dr Duffy

Freedom of Information Request – FOI 13/12

I refer to your email dated 18 January 2013 to the Department of Finance and Deregulation (Finance) in which you sought access under the *Freedom of Information Act 1982* (FOI Act) to:

... details of all expenditure for online advertising on Google owned products for the period January 1st 2006 to January 17th 2013.

This request includes payment to media aggregators that place Federal governments advertisements on Google owned products or through google owned services like Doubleclick.

The statutory period for processing your request commences from the day after Finance receives a valid request.

Request not valid

On 24 January 2013, Ms Laura Clark emailed you advising:

Before we can accept your request as valid under section 15(2) of the Freedom of Information Act 1982 (FOI Act) we would like to clarify what information you are requesting from Finance, to enable us to identify relevant documents. Subject to clarification we can then proceed to process your request under the FOI Act

.....

We would like to clarify if the expenditure you are referring to relates to Finance expenditure or all Commonwealth Agencies? Finance will only have access to information of expenditure placed under the CAS arrangements. Where Agencies place advertising directly, including where it does not meet the threshold amounts, or placement on social media outside the CAS, Finance will not have this data.

You have asked for expenditure on Google owned products or through Google owned services like Doubleclick. Finance does not have the ability nor does it propose to assess what may or may not be Google owned products. We can ask our contracted

service provider to identify total expenditure to Google and Doubleclick. If you require other entities you will need to nominate those entities.

You have also asked for expenditure for a very large timeframe, being January 2006 to January 2013. As noted above, our current master media agency contracts commenced in May 2009.

Finance is willing to provide you with a summary table of total costs relating to Finance's expenditure, or if you require data relating to total expenditure under the CAS (which would include other Commonwealth Agencies), we can consult with our contracted providers and advise you of the estimate of charges. This would reduce the processing time for your request.

For example:

<i>Year</i>	<i>Expenditure (total)</i>
<i>2009 (from May)</i>	
<i>2010</i>	
<i>2011</i>	
<i>2012</i>	

Please let us know if you would like to receive the information in this form, including whether you would like data relating to Finance expenditure or other Commonwealth Agencies, and we can proceed to process your FOI request and prepare an estimate of charges.

On 24 January 2013 you advised:

Thank you for your response. I will consider your comments over the next few days and provide further details for my request as you suggested.

As Finance has not received any further response, the purpose of this letter is to provide you with a notice of intention to refuse your request under subsection 24AB(2) of the FOI Act on the grounds that your request does not satisfy the requirement in subparagraph 15(2)(b) (identification of documents), a practical refusal reason in terms of subparagraph 24AA(1)(b) of the Act.

I enclose relevant provisions of the FOI Act.

Clarifying the terms of your request in such a way that it might reasonably be managed by the office

When a request involves a practical refusal reason, identification of documents, the department discusses the request with the applicant in order to clarify its terms.

It may be that there are specific elements of the subject-matter of the request that you are particularly interested in that could be isolated with a view to narrowing the terms of the request.

In accordance with section 24AB you must do one of the following, in writing:

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

There is a consultation period under 24AB of 14 days and this starts on the day after you receive this notice.

If you revise your request that adequately addresses the practical refusal grounds outlined above, we will recommence processing it (please note that the time taken to consult you regarding the scope of your request is not taken into account for the purposes of the 30 day time limit for processing a request.)

Should we not receive a response as indicated above within the consultation period, your request will be taken to have been withdrawn.

Way Forward

To assist us in processing your request, could you please consider its scope and suggestions provided. We would appreciate a response by **COB Wednesday 20 March 2013**

Further Assistance

Should you require any assistance or to discuss any other aspect of your request, please call me on the above contact details.

Yours sincerely



Jill Clark
FOI Coordinator
Legal Services Branch

6 March 2013

Relevant provisions of the FOI Act

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

15 Requests for access

Persons may request access

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

Requirements for request

- (2) The request must:
 - (a) be in writing; and
 - (aa) state that the request is an application for the purposes of this Act; and
 - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
 - (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).
- (2A) The request must be sent to the agency or Minister. The request may be sent in any of the following ways:
 - (a) delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;
 - (b) postage by pre-paid post to an address mentioned in paragraph (a);
 - (c) sending by electronic communication to an electronic address specified by the agency or Minister.

Agency required to assist

- (3) Where a person:
 - (a) wishes to make a request to an agency; or
 - (b) has made to an agency a request that does not comply with this section;it is the duty of the agency to take reasonable steps to assist the person to make the request in a manner that complies with this section.

Note: An agency or Minister may refuse to deal with a request if satisfied that a practical refusal reason exists, after undertaking the request consultation process (see section 24).

- (4) Where a person has directed to an agency a request that should have been directed to another agency or to a Minister, it is the duty of the first-mentioned agency to take reasonable steps to assist the person to direct the request to the appropriate agency or Minister.

Timeframes for dealing with request

- (5) On receiving a request, the agency or Minister must:
 - (a) as soon as practicable but in any case not later than 14 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified that the request has been received; and

- (b) as soon as practicable but in any case not later than the end of the period of 30 days after the day on which the request is received by or on behalf of the agency or Minister, take all reasonable steps to enable the applicant to be notified of a decision on the request (including a decision under section 21 to defer the provision of access to a document).
- (5A) In making a decision on a request, the agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of section 93A.
Extension of processing period to comply with requirements of section 26A, 26AA, 27 or 27A
- (6) Where, in relation to a request, the agency or Minister determines in writing that the requirements of section 26A, 26AA, 27 or 27A make it appropriate to extend the period referred to in paragraph (5)(b):
 - (a) the period is extended by a further period of 30 days; and
 - (b) the agency or Minister must, as soon as practicable, inform the applicant that the period has been so extended.
- Extension of processing period to consult foreign entity*
- (7) Subsection (8) applies if, in relation to a request, the agency or Minister determines in writing that it is appropriate to extend the period referred to in paragraph (5)(b) so that the agency or Minister can:
 - (a) consult one of the following:
 - (i) a foreign government;
 - (ii) an authority of a foreign government;
 - (iii) an international organisation; and
 - (b) determine whether the document that is the subject of the request is an exempt document under subparagraph 33(a)(iii) or paragraph 33(b).
 - (8) If this subsection applies:
 - (a) the period referred to in paragraph (5)(b) is extended by a period of 30 days; and
 - (b) the agency or Minister must, as soon as practicable, inform the applicant that the period has been extended.

24AA When does a *practical refusal reason* exist?

- (1) For the purposes of section 24, a *practical refusal reason* exists in relation to a request for a document if either (or both) of the following applies:
 - (a) the work involved in processing the request:
 - (i) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or
 - (ii) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister’s functions;
 - (b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).
- (2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:
 - (a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;
 - (b) 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:
 - (i) examining the document; or
 - (ii) consulting with any person or body in relation to the request;
 - (c) making a copy, or an edited copy, of the document;
 - (d) notifying any interim or final decision on the request.
- (3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:
 - (a) any reasons that the applicant gives for requesting access; or

- (b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or
- (c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a *request consultation process*?

Scope

- (1) This section sets out what is a *request consultation process* for the purposes of section 24.

Requirement to notify

- (2) The agency or Minister must give the applicant a written notice stating the following:
 - (a) an intention to refuse access to a document in accordance with a request;
 - (b) the practical refusal reason;
 - (c) the name of an officer of the agency or member of staff of the Minister (the *contact person*) with whom the applicant may consult during a period;
 - (d) details of how the applicant may contact the contact person;
 - (e) that the period (the *consultation period*) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

- (3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.
- (4) For the purposes of subsection (3), *reasonable steps* includes the following:
 - (a) giving the applicant a reasonable opportunity to consult with the contact person;
 - (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

- (5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

- (6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:
 - (a) withdraw the request;
 - (b) make a revised request;
 - (c) indicate that the applicant does not wish to revise the request.
- (7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:
 - (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
 - (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

- (8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required

- (9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.