



20 December 2013

File: ER2013/04411
FOI ref: 1430

Mr Brendan Molloy
Councillor
Pirate Party Australia

foi+request-471-bb0595e0@righttoknow.org.au

Dear Mr Molloy

FREEDOM OF INFORMATION REQUEST

I am an authorised decision maker under section 23 of the *Freedom of Information Act 1982* (the Act). I am writing to formally notify you that I consider that 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 the request. This is called a 'practical refusal reason' under section 24AA of the Act.

I refer to your email of 12 November 2013 in which you sought access to documents under the Act, particularly:

- "(a) documents relating to negotiating positions regarding the e-commerce chapter of the Trans-Pacific Partnership Agreement; and*
- (b) any other documents relating to the Trans-Pacific Partnership Agreement held by Treasury."*

On 28 November 2013, Treasury advised you of our intention to refuse your request in accordance with subparagraph 24AA(1)(a)(i) of the Act as the work involved to process your request in its current form would substantially and unreasonably divert the resources of the Treasury from its other operations.

We then entered a consultation period in accordance with section 24AB of the Act.

On 28 November 2013, you emailed and revised the scope of your request to:

- "(a) documents relating to negotiating positions regarding the e-commerce chapter of the Trans-Pacific Partnership Agreement."*

On 6 December 2013, you were advised that the scope of your request was again unreasonable.

On 10 December 2013 you again revised the scope of your request to:

- "Documents relating to the current negotiating position regarding the e-commerce chapter of the Trans-Pacific Partnership Agreement."*

After receiving each of your modified requests, I commissioned a search for a sample of the requested documents in order to extrapolate the time and resources required to complete the full request. Based on the searches undertaken, I estimated that the time to process your request would be a substantial and unreasonable diversion of departmental resources under section 24AA of the Act.

Each of your requests are similar in scope and due to the nature of the information you seek, I estimate that the time required to make a decision on access would amount to the equivalent of several weeks' work for a number of Treasury officers within various Divisions throughout the Department.

Under section 24AA(2) of the Act, an agency must have regard to the resources that would have to be used for:

- Identifying, locating or collating the documents within the filing system of the agency or the office of the Minister;
- 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 an edited copy of the document; and
- Notifying any interim or final decision on the request.

Section 24 of the Act provides that if an agency is satisfied, after a request consultation process has been undertaken, that a practical refusal reason exists in relation to the request the agency may refuse to give access in accordance with the request.

On this basis, I am refusing your request under subparagraph 24AA(1)(a)(i) of the Act because the work involved in processing either the original and revised requests would substantially and unreasonably divert the resources of the Treasury from its other operations.

Your rights of review are attached.

Yours sincerely



Deidre Gerathy
Chief Adviser
Foreign Investment and Trade Policy Division

RIGHTS OF REVIEW**INFORMATION ON RIGHTS OF REVIEW****1. APPLICATION FOR INTERNAL REVIEW OF DECISION**

Section 54 of the Freedom of Information Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

Application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

Application for a review of the decision should be addressed to:

The Secretary
The Treasury
Langton Crescent
PARKES ACT 2600
Attention: Parliamentary and Legal Services Unit

OR

2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

AND/OR

3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.