



**Australian Government**  
**Attorney-General's Department**  
**Office of Corporate Counsel**

File No: 13/2343  
Date: 12 April 2013

Mr Patrick Gardner

By E-mail only: [foi+request-60-caeb55b9@righttoknow.org.au](mailto:foi+request-60-caeb55b9@righttoknow.org.au)

Dear Mr Gardner

**Re: Freedom of Information Request**

I refer to your request under the *Freedom of Information Act 1982* ('the Act') dated 10 February 2013, in which you seek access to copies of the following documents:

*'(a) Electronically available documents prepared prior to Australia's ratification of the Australia-United States Free Trade Agreement ('AUSFTA'), which discuss amendments to the Copyright Act (1968) in order to comply with provisions of AUSFTA.*

*(b) Electronically available documents prepared following Australia's ratification of AUSFTA, of the same kind requested in (a).*

*(c) Any electronically available correspondence with the Productivity Commission in relation to the impact of AUSFTA on intellectual property rights and associated legislation'.*

Request Consultation Process

Section 24 of the Act provides that where a 'practical refusal reason' exists in relation to a request the Agency must undertake a 'request consultation process' with the applicant. Under section 24AA of the Act it is clear that a practical refusal reason will exist where the work involved in processing the request 'would substantially and unreasonably divert the resources of the Agency from its other operations'.

Intention to refuse request

On 28 February 2013, you were provided with notice over e-mail that this Department intended to refuse access to documents in accordance with your request on the basis that it would 'substantially and unreasonably divert the resources of the Agency from its other operations'.

### Practical Refusal Reason

I am advised by the relevant areas of the Department that coming within the ambit of your request are up to 70 files, some containing up to 50 or more documents. These files would have to be individually examined by multiple officers in order to identify documents relevant to your request and process them accordingly. To complete that would require a significant period of time– in excess of 70 hours which would constitute a substantial and unreasonable diversion of this Department's resources.

### Request Consultation period and contact officer

On 28 February 2013, you were advised over e-mail that you may consult with me with a view to revising your request in a manner that may render it capable of being processed without necessitating such a diversion of resources. A 14 day consultation period commenced from the date of that notification. During that period you were encouraged to contact me on any of the details above so that I could take reasonable steps to assist you to revise the request so that the practical refusal reason no longer existed, but no correspondence was received from you within that period.

Under s24AB(9) of the Act, agencies are not obliged to undertake a second consultation process:

*to avoid all doubt, this section only obliges the agency ... to undertake a request consultation process once for any particular request.*

On 19 March 2013, out of courtesy– notice of a further 14 days was sent to you over e-mail, but no correspondence was received from you within that extended period.

Please note that because you did not contact me within the consultation periods in accordance with the notices provided to you on 28 February 2013 and 19 March 2013 respectively, your request is now taken to be withdrawn under subsection 24AB(7)(a) of the Act, which states that:

- (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; ...*

Yours sincerely,



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