



Australian Government

Office of the Australian Information Commissioner

Our reference: RQ20/04303
Agency reference: 1-O08K16V

Mr Willy Wonka

Sent by email: foi+request-6972-aaf84e0b@righttoknow.org.au

Extension of time under s 15AB

Dear Mr Wonka

On 18 December 2020, the Australian Taxation Office (the ATO) applied for further time to make a decision on your FOI request of 11 December 2020 under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

This application is on the basis that the processing period is insufficient to deal adequately with your request, because it is complex.

The ATO attempted to obtain an agreement under s 15AA of the FOI Act for an extension of time from you. The ATO advised that you refused the request for a 30 day extension.

Decision

As a delegate of the Information Commissioner, I am authorised to make decisions on applications for extensions of time under s 15AB of the FOI Act.

I have decided to grant the ATO an extension of time of under s 15AB(2) of the FOI Act **to 9 February 2020**. I am satisfied that the ATO's application for an extension of time is justified, because the request is complex. My reasons follow:

- The ATO have advised the request is complex, due to the nature of the documents requested..
- The ATO have advised additional time is needed to determine the extent of the complexity and to locate and collate such documents should they exist, as well as to process such documents.
- Each of the documents will require extensive consultation with the relevant business areas of the ATO, and key personnel, who the ATO anticipates will be senior ATO officers. Such officers are not only managing their usual substantial workloads but also directly involved in developing and deploying the ATO's COVID19 response. Additional time will be needed to consult with these individuals.

- The internal consultation required to process this request is further impacted by the ATO's Christmas shutdown and availability of the relevant staff.
- An extension will allow the ATO to provide a well-reasoned decision.

Contact

If you have any questions about this email, please contact me on 02 9284 9625 or via email avanithah.selvarajah@oaic.gov.au. In all correspondence please include OAIC reference number at the top of this letter.

Yours sincerely



Avanithah Selvarajah

Review and Investigations Adviser
Freedom of Information

23 December 2020

Review rights

If you disagree with the Office of the Australian Information Commissioner's (OAIC) decision you can apply to the Federal Court of Australia or the Federal Circuit Court for a review of a decision of the Information Commissioner if you think that a decision by the Information Commissioner to grant an extension of time is not legally correct. You can make this application under the *Administrative Decisions (Judicial Review) Act 1977*.

The Court will not review the merits of your case but it may refer the matter back to the Information Commissioner for further consideration if it finds the decision was wrong in law or the Information Commissioner's powers were not exercised properly.

An application for review must be made to the Court within 28 days of the OAIC sending the decision to you. You may wish to seek legal advice as the process can involve fees and costs. Please contact the Federal Court registry in your state or territory for more information, or visit the Federal Court website at <http://www.fedcourt.gov.au/>.

Further information

Further information about how applications to extend the timeframe to process an FOI request are handled by the OAIC can be found published on our website:

For FOI applicants: [How to make an FOI request: Extensions of time](#)

For agencies and ministers: [Guidance and advice: Extension of time for processing requests](#)

The OAIC has the power to investigate complaints about an agency's actions under the Freedom of Information Act 1982 (FOI Act). This is a separate process from asking for an Information Commissioner review following a decision made under the FOI Act. Complaints usually focus on how an agency has handled your FOI request or complied with other obligations under the FOI Act, rather than the decision itself.

In some cases, the Information Commissioner's investigation of a complaint may lead to the agency addressing the issues that you have complained about. In other cases, the Information Commissioner may make suggestions or recommendations that the agency should implement. The Information Commissioner can only make non-binding recommendations as a result of a complaint. You and the agency will be notified of the outcome of the investigation.

FOI complaints to the OAIC must be made in writing. Our preference is for you to use the [online FOI complaint form](#) if at all possible.

Further information about how to make a complaint can be found published on our website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.