

19 February 2021

Dear Eliza,

We are writing in relation to the *Freedom of Information Act 1982* (FOI Act) request you made to the eSafety Commissioner (eSafety) on 18 February 2021.

We would like to discuss and seek further information about your request.

The subject line of your email states your request relates to 'org[a]nisations that use non-consen[s]ually gathered images'. The wording for your FOI request is as follows:

'Any emails or final documents containing the following keywords or phrases "Thorn", "Spotlight", "ClearviewAI", "Clearview", "Clearview Ai", "PhotoDNA".'

The specified time period for your request is 1 January 2017 to 18 February 2021.

We are unclear as to the scope and subject matter of your request. In particular, it is unclear whether you are seeking emails and final documents that contain the keywords or phrases "Thorn", "Spotlight", "ClearviewAI", "Clearview", "Clearview Ai", "PhotoDNA" and that relate to the non-consensual gathering of images by organisations, or whether the emails and final documents containing these words are not related to the subject line of your request.

Given the broad nature of your request, the time required to process your request is also likely to require a significant use of eSafety's resources.

As you may know, an agency may refuse a request under the FOI Act if a practical refusal reason exists. A practical refusal reason exists if:

- in the case of an agency, the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations (section 24AA(1)(a)(i)), or
- a request does not sufficiently identify the requested documents (section 24AA(1)(b)).

Under section 24 of the FOI Act, if an agency believes they may need to refuse access to a request, they are to request a consultation process with the applicant. The consultation period runs for 14 days. Under section 24AB(8), the consultation period is to be disregarded in working out the 30 day period for processing an FOI request under section 15(5)(b).

Pursuant to section 24 of the FOI Act, we may need to refuse your request due to the reasons set out above under sections 24AA(1)(a)(i) and 24AA(1)(b)). We would therefore like to consult with you and assist you to revise your request so that a practical refusal reason does not exist.

We would welcome the opportunity to discuss your FOI request with you. Please contact the FOI Coordinator at enquiries@esafety.gov.au to determine a time when you are available to discuss.

Kind regards,

FOI Coordinator

eSafety Commissioner