

27 February 2024

**Bic Rurr**

by email only: [foi+request-7288-e654590a@righttoknow.org.au](mailto:foi+request-7288-e654590a@righttoknow.org.au)

**RE: FREEDOM OF INFORMATION REQUEST 2024-00572**

Dear Bic

The purpose of this letter is to give you a formal decision about access to documents that you requested under the *Freedom of Information Act 1982 (Cth)* (“**FOI Act**”).

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

We received your request on 13 February 2024 in which you seek the following:

*“...a summary of how many insurance claims were made against lost or damaged parcels. I would like to limit the data to parcels that were insured for the initial value of \$100 (no extra insurance purchased). Could this number be broken into approved and denied claims please. I am not looking for a specific date range, newest available data preferred. I would prefer it to be broken into financial or calendar year. I would also prefer a summary for at least three years.*

*For example...*

*2019 - 2000 claims made, 1000 denied, 1000 approved*

*2018 - 3000 claims made, 1500 denied, 1500 approved*

*2017 - 1500 claims made, 1000 denied, 500 approved.” (“**Request**”)*

Searches have not been conducted of Australia Post records for the information you have described so I cannot confirm or deny the existence of document/s matching the description of your Request.

Instead, I have decided to refuse your Request as I believe that the disclosure of the document/s described is not required under the FOI Act.

My formal decision and additional information regarding my decision is below.

**Decision and reasons for the decision**

Your request is formally refused under **section 7(2)** of the FOI Act – commercial activities.

The following material was taken into account in making my decision:

- the description of your Request;
- the FOI Act (specifically section 7); and
- the FOI Guidelines issued by the Information Commissioner (“**Guidelines**”).

**Section 7(2)** in conjunction with Schedule 2, Part II, of the FOI Act entirely exempts Australia Post from the operation of the FOI Act in respect of documents relating to its commercial activities.

When considering your Request, I believe that if the document/s you have described exist, they fall under the scope of Australia Post’s parcel delivery business.

Australia Post’s parcel delivery business is a commercial activity of Australia Post. Any document that has been brought into existence in the course of or for carrying on commercial activities is exempt from disclosure. This

includes the document/s described in your Request.

The Guidelines confirm this at paragraph 2.14, Part 2 which state:

*Exemptions applying to commercial activities, security and defence intelligence documents, and other matters Section 7(2) (supplemented by Schedule 2, Part II) lists agencies that are exempt from the operation of the FOI Act in relation to particular types of documents. The list includes amongst others; the Attorney-General's Department in relation to documents in respect of activities undertaken by the Australian Government Solicitor and various bodies such as **Australia Post**, Comcare, Commonwealth Scientific and Industrial Research Organisation (CSIRO), NBN Co and Medicare, in relation to documents in respect of commercial activities.*

Section 7(3) of the FOI Act defines commercial activities in Part II of Schedule 2 as being:

- a) *activities carried on by an agency on a commercial basis in competition with persons other than governments or authorities of governments; or*
- b) *activities carried on by an agency, that may reasonably be expected in the foreseeable future to be carried on by the agency on a commercial basis in competition with persons other than governments or authorities of governments.*

For this exemption to apply, the commercial activity must be carried out in competition with persons other than governments and government authorities.

Australia Post's parcel delivery business competes against private enterprise in all the services it offers. It constantly faces intense competition from major and boutique parcel delivery entities, owner drivers and other couriers such as FedEx, Interparcel, FastCourier, DHL, PackSend to name a few.

Also, section 7(4) provides that a reference to documents in respect of particular activities (commercial activities) should be read as '*documents received or bought into existence in the course of, for the purposes of, the carrying on of those activities*'.

It is my belief that any document that discusses any activity associated with Australia Post's parcel delivery business, has been bought onto existence in the course of and for the purposes of carrying out commercial profit seeking activities, as described in the FOI Act.

Further, I believe Australia Post's parcel delivery business comprises commercial activities as defined in the FOI Act because it is:

- not a part or component, of the letter service which is "reserved" to Australia Post by section 29 of the *Australian Postal Corporation Act (1989)* ("**APC Act**"); and
- operated separately to the letter service.

In summary, it is my belief that:

1. all documents associated with Australia Post's parcel delivery business have been bought into existence in the course of carrying on commercial profit seeking activities; and
2. Australia Post's parcel delivery business is an activity carried on in a fully competitive basis in competition with persons other than governments or authorities of governments.

It follows that I believe that should the document/s described in your Request exist, disclosure is not required under the FOI Act.

### **Your review rights**

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision.

#### *Internal Review*

Under section 54 of the FOI Act, you may apply in writing to Australia Post for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by the FOI Review officer within 30 days.

Please send your review request in writing or email to:

FOI Review Officer                      or to [foi@auspost.com.au](mailto:foi@auspost.com.au)  
Australia Post  
GPO Box 1777  
MELBOURNE VIC 3001

#### *Information Commissioner Review*

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: [https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR\\_10](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)

email: [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

post: GPO Box 5218 Sydney NSW 2001

More information about an Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

#### **FOI Complaints**

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. Complaints can be lodged in one of the following ways:

online: [https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA\\_1](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1)

email: [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

post: GPO Box 5218 Sydney 2001

More information about complaints is available on the Office of the Australian Information Commissioner at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

If you are sure whether to lodge an Information Commissioner review or an Information Commissioner complaint, the Office of the Australian Information Commissioner has more information at: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Yours sincerely,



**Anna**  
Freedom of Information Officer