



14/11506

12 September 2014

Mr Bill Mezzetti

Sent via email: foi+request-753-513375e6@righttoknow.org.au

Dear Mr Mezzetti

Freedom of Information Request no. FOI14/180

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

Summary

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

You requested access to documents relating to data retention on 27 August 2014. Specifically you sought access to:

copies of the document or documents distributed by the Attorney-General's Department to members or representatives of the telecommunications industry relating to data retention between August 22 and August 25, 2014.

I have identified that the Attorney-General's Department has no documents that fall within the scope of your request. I did this by undertaking a search of the Department's Electronic Document Management System.

I have accordingly decided to refuse your request for access to the documents. More information, including my reasons for my decision, is set out below.

Decision and reasons for decision

With regard to the documents requested in your application, I have found that:

- no documents concerning data retention were distributed by the Attorney-General's Department between 22-25 August 2014. Accordingly, the document you are seeking does not exist (section 24A(1)(b)(ii)) – information about why they do not exist is given below.

Material taken into account

I have taken the following material into account in making my decision:

- the content of the documents that would fall within the scope of your request
- the FOI Act (specifically section 24A(1)(b)(ii))
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

My reasons for refusing access are given below.

Documents non-existent (s 24A(1)(b)(ii))

Officers of the Department undertook searches of the Department's Electronic Document Management System and found that the Department did not distribute any documents to the telecommunications industry relating to data retention within the timeframe specified in your request.

I note that the Department provided a consultation paper to telecommunications industry participants prior to 22 August 2014. This document was tabled in the Senate on 4 September 2014 and is now publicly available. I enclose a copy of the document and related tabling letter.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. I encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Attorney-General's Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, and be lodged in one of the following ways:

email: foi@ag.gov.au
post: Freedom of Information and Privacy Section
Office of Corporate Counsel,
Attorney-General's Department,
3-5 National Circuit
Barton, ACT 2600

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

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/aba/oaic/foi-review/>
email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

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

Questions about this decision

If you wish to discuss this decision, please contact Joanna Burley, FOI case manager on 02 6141 6666 or by email foi@ag.gov.au.

Yours sincerely



Anna Harmer
Assistant Secretary