



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries):
Level 7, 120 Collins Street,
Melbourne VIC 3000

Mail address for Melbourne office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075
Fax: +61 1300 729 000

www.asic.gov.au

11 August 2021

Mr Lucas Baird

By email only: foi+request-7574-b20e16d7@righttoknow.org.au

Dear Mr Baird

**Freedom of Information Request No. FOI 128-2021
Notice of Decision**

I refer to your email received by ASIC on 12 July 2021 in which you have sought information from the Australian Securities and Investments Commission (**ASIC**) under the *Freedom of Information Act 1982 (FOI Act)*.

Your request seeks access to the following:

“any and all communications between ASIC and any airlines about securing them as the preferred provider of travel services to the regulator for financial year 2021 and financial year 2022.

I also request any log of gifts as accrued to regulatory staff from the airlines, including upgrades, lounge access and any other hospitality”

As noted in my letter of 20 July 2021, the first part of your request was transferred to the Department of Finance under s 16(1)(b) of the FOI Act. Section 16(1)(b) enables an agency to transfer a request, or part of a request, if the subject matter of the request is more closely connected with the functions of another agency.

With respect to the second part of your request where you sought “a log of gifts as accrued to regulatory staff from the airlines, including upgrades, lounge access and any other hospitality”, I note that ASIC makes publicly available details of all gifts, benefits and hospitality accepted by ASIC staff that are valued at \$100 and over. This [register](#) is accessible from ASIC's website.

This letter contains notice of my decision in respect of the second part of your request and includes consideration of all gifts, benefits and hospitality provided to ASIC staff irrespective of value up until the date of your request.

Decision

I am an authorised decision maker for the purposes of section 23(1) of the FOI Act.

I have decided to **refuse** your request under section 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.

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

- the information within ASIC's systems that falls within the scope of your request.
- the FOI Act (specifically section 24A).
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**the FOI Guidelines**).

Reasons for decision

Section 24A - Requests may be refused if documents cannot be found, do not exist or have not been received

Section 24A relevantly provides that:

(1) An agency or Minister may refuse a request for access to a document if:

*(a) all reasonable steps have been taken to find the document;
and*

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

I have had a log produced from ASIC systems that extracted details of all gifts, benefits and hospitality for the period July 2020 to June 2021 irrespective of the value of the declared benefit.

An examination of the details of the party offering the gift, benefit or hospitality indicates that there are no airlines represented on this log. My review of this material specifically sought references to Qantas, Virgin and Jetstar, as the primary domestic carriers, as well as the use of the generic term 'airline'.

An examination of the declarations submitted for the period 1 July 2021 to 12 July 2021 on the same terms indicates that there are no declarations relevant to your request during this period.

On the basis of our examinations of the available logs from the system used to report gifts, benefits and hospitality within ASIC I am satisfied that there have been no relevant declarations by ASIC staff for the period since 1 July 2020 and therefore I have determined that the information you are seeking does not exist.

Review rights

I provide you with the following information as required by section 26 of the FOI Act.

In the event that you are dissatisfied with the decision:

1. You may, within 30 days after the day on which you have been notified of this decision, apply in writing to ASIC for an internal review of my decision under section 54B of the FOI Act. This review is an independent process conducted by a Senior Freedom of Information Officer at ASIC. This request should be addressed to me or to the Senior Manager, Freedom of Information, GPO Box 9827, Brisbane QLD 4001 or by email to foirequest@asic.gov.au.
2. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Office of the Australian Information Commissioner (OAIC) for a review of my decision under section 54N of the FOI Act. You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at FOIDR@oaic.gov.au or by telephone on 1300 363 992.

Right to complain

You may lodge a complaint with the OAIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIC as set out above.

Yours sincerely,



Justin Frank

(Authorised decision maker under section 23(1) of the FOI Act)