



Australian Government

Department of Immigration and Border Protection

Tuesday 24 February 2015

File ref: ADF2015/5383  
FOI ref: FA 15/02/00568

copy sent by email to: [foi+request-921-f99df21a@righttoknow.org.au](mailto:foi+request-921-f99df21a@righttoknow.org.au)

Dear CD

**Notice under s.24AB of the *Freedom of Information Act 1982***

I am writing to you in relation to your request under the *Freedom of Information Act 1982* (the Act) on 11 February 2015 for:

*“any and all written documentation such as, but not limited to; letters, emails, notes, press releases, statements and faxes held by the "Department of Immigration and Border Protection" that refer to "Freedom" branded food items and/or "Muesli Bars" between the dates of 1/6/14 and 10/2/15.”*

I note that your request is currently due on 13 March 2015.

**Purpose of this notice**

The purpose of this notice is to advise you (as required under s.24AB of the Act) that I consider that a '*practical refusal reason*' exists under s. 24AA of the Act and that I am considering refusing access to the documents in the form requested, as provided under s.24 of the Act. My reasons are set out in this notice. You are invited to contact me to alter or narrow the scope of your request to ensure that no '*practical refusal reasons*' apply.

**Advice regarding practical refusal reasons**

The Act contains two '*practical refusal reasons*'. The first is that processing the request '*would substantially and unreasonably divert the resources of the agency from its other operation*' (s.24AA(1)(a)).

An agency may also refuse an FOI request if the agency is satisfied that the request does not '*provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency to identify*' the document in question (s.24AA(1)(b)).

**people** our business

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## Office of the Australian Information Commissioner

It may assist you to know that, in his *Report to the Attorney General on the Review of charges under the FOI Act* (February 2012), the Australian Information Commissioner (AIC), Professor John McMillan stated that agencies should not be required to process requests that the agency estimates will take more than 40 hours to process. The AIC has recommended changes to the law to ensure that agencies will be able to refuse such requests.

While the AIC's recommendation is not the current law, the recommendation in the report is an indication that the AIC considers more than 40 hours of processing time to be a substantial and unreasonable diversion of an agency's resources.

### Application of s.24AA of the FOI Act to your request

It is my view that the request, as it currently stands, satisfies the first practical refusal reason.

#### Number of pages:

The relevant business area has estimated that there will be in excess of 1000 pages of emails falling within the scope of this request. Only once the emails have been located and collated would they be able to advise with certainty the number of emails and the number of pages involved.

#### Time:

The relevant business area has further advised that the emails are located in numerous departmental email boxes, and that significant time is required to extract the emails.

Using the standard FOI charges calculator, I estimate that at a bare minimum, it would take approximately **103.25 hours** to process this request as it currently stands. As a result, I am satisfied that your request *would substantially and unreasonably divert the resources of DIBP from its other operations*. Therefore, I am unable to progress your request until I have consulted with you on its scope.

### Consultation over scope

You may consult with me on the scope during the **consultation period** which is from the date on this notice until close of business **Tuesday 10 March 2015**.

You may request that I extend the consultation period if you wish, by writing to me before the end of the consultation period at [foi@immi.gov.au](mailto:foi@immi.gov.au). (s.24AB(5)).

Please note that s.24AB(8) of the FOI Act provides the legislated processing time for your request is 'suspended' until you have either:

- revised the request or
- withdrawn the request or
- advised me that you do not intend to revise the request.

If you do not contact me in writing before the end of the consultation period (to either withdraw your request, revise or affirm the scope of your request, or ask for an extension of time to respond to the s.24AB notice) your request will be deemed to be withdrawn in accordance with s.24AB(7) of the Act.

I look forward to hearing from you shortly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Stanley', with a stylized flourish at the end.

Simone Stanley  
Authorised FOI Decision Maker  
Freedom of Information Section  
Department of Immigration and Border Protection  
Email [foi@immi.gov.au](mailto:foi@immi.gov.au)