



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI
FOI/2015/035

Chris Pirina

By email: foi+request-947-40323b20@righttoknow.org.au

Dear Chris Pirina

I refer to your email dated 19 February 2015 in which you made a request to the Department of the Prime Minister and Cabinet (Department) under the *Freedom of Information Act 1982* (FOI Act) in the following terms:

Freedom of Information request – Carbon tax distribution

The Australian people were promised a significant drop in costs, however few have seen this. I am therefore requesting any available documents that show the true spread of cost reduction rather than average per household.

The authorised decision-maker for your request is Ms Kelly Pearce, Assistant Secretary, UNFCCC Taskforce.

Notice of practical refusal reason

I write to advise you that the decision-maker considers your request, in its current form, does not provide such information concerning the documents as is reasonably necessary to enable a responsible officer of the Department to identify the documents in accordance with section 15(2)(b) of the FOI Act. This constitutes a 'practical refusal reason' under section 24AA(1)(b) of the FOI Act. On this basis, the decision-maker intends to refuse access to your request.

However, before the decision-maker makes a final decision to refuse the request for a practical refusal reason, you have an opportunity to revise your request. This is called a 'request consultation process' as set out under section 24AB of the FOI Act. You have **14 days** after receiving this notice in which to respond in one of the ways set out below.

Reasons for intention to refuse your request

Under section 24AA(1)(b) of the FOI Act, a practical refusal reason exists where an FOI request does not satisfy the requirements of section 15(2)(b) of the FOI Act. Relevantly, section 15(2)(b) states that a request must 'provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency to identify it'.

Relevantly, it is not clear what you mean by the words ‘documents that show the true spread of cost reduction’. The term ‘cost reduction’ could refer to any number of costs that a household may incur, that may or may not have reduced as a result of the carbon tax repeal legislation. The decision-maker seeks your clarification of what particular ‘costs’ you are referring.

In addition, it is not clear what you mean by the terms ‘true spread’ of the cost reduction. The spread of any ‘cost reductions’ could be measured in any number of ways. Accordingly the decision-maker seeks clarification of what you mean by ‘true spread’.

Finally, the decision-maker seeks your clarification of whether you are referring to documents that were brought into existence before the repeal of the carbon tax legislation or after the repeal of the carbon tax legislation.

Accordingly, the decision-maker considers your request in its current form does not provide such information concerning the documents as is reasonably necessary to enable a responsible officer of the Department to identify the documents.

Request consultation process

You now have an opportunity to revise your request to enable it to proceed. Revising your request can mean explaining in more detail the specific documents you wish to access.

Before the end of the consultation period, you must do one of the following, in writing:

- withdraw your request;
- make a revised request; or
- tell us that you do not wish to revise your request.

The consultation period runs for **14 days** and will start on the day after you receive this notice. I am the relevant person for you to contact for the consultation process. If you were to revise your request in a way that adequately addresses the practical refusal grounds outlined above, we would recommence processing it. If you do not do one of the three things listed above during the 14 day consultation period or you do not consult with me during this period, your request will be taken to have been withdrawn.

Withdrawal of FOI request

Given it is the function of the Australian Competition and Consumer Commission (ACCC) to monitor costs and profits to assess the effect of the carbon tax repeal on prices, the decision-maker seeks your agreement to withdraw your FOI request with the Department and either lodge an FOI request with the ACCC or to refer to the publicly available information described below.

Publicly available information

The carbon tax repeal legislation included provisions to help ensure households and businesses would benefit from lower prices. Companies supplying electricity, natural gas and synthetic greenhouse gases were required to pass on all cost savings associated with the repeal of the carbon tax. The ACCC has been given extra funding and powers to ensure savings are passed on to consumers. In addition to its existing powers, the ACCC has extra powers to:

- monitor prices of regulated goods and liable entities (price monitoring). Price monitoring conducted by the ACCC includes monitoring costs and profits to assess the effect of the carbon tax repeal on prices.
- take action against businesses supplying regulated goods that attempt to exploit other businesses and consumers by failing to pass through all of their cost savings from the carbon tax repeal (carbon tax price reduction obligation).
- take action against businesses that make false or misleading claims about the effect of the carbon tax repeal or carbon tax scheme on the price for the supply of goods or services (false or misleading representations).

The ACCC publishes quarterly monitoring reports containing information on how savings from the carbon tax repeal are passed on to consumers. The reports are available on the ACCC website (<https://www.accc.gov.au/publications/monitoring-of-prices-costs-profits-to-assess-the-general-effect-of-the-carbon-tax-scheme-in-australia>). The September quarter 2014 presents an estimate of average annual cost savings for electricity (Annexure 2) and gas (Annexure 3) broken down by state and supplier.

There are large penalties for businesses that do not pass on cost savings from the repeal of the carbon tax. Pecuniary penalties of up to \$1.1 M for a corporation and \$220,000 for an individual apply to contraventions of the price reduction obligation and false and misleading provisions. Additionally, suppliers of electricity or natural gas and bulk synthetic greenhouse gases importers that fail to pass through all of their cost savings will also be subject to a penalty equal to 250 per cent of the cost savings that were not passed through. More information can be found on the ACCC website: accc.gov.au/business/carbon-tax-repeal/our-role-in-carbon-tax-repeal.

Should you wish to discuss any aspect of your request, please contact me by email at foi@pmc.gov.au or by phone on 02 6271 5849.

Yours sincerely



Liz
FOI Adviser
Legal Policy Branch

17 March 2015