



23 Marcus Clarke Street
Canberra ACT 2601

GPO Box 3131
Canberra ACT 2601

Our ref: PRJ1006564
Contact officer: FOI Team
Contact phone: 02 6243 1244

tel: (02) 6243 1111
fax: (02) 6243 1199

21 March 2023

www.accc.gov.au

Mr Rex Banner

Sent via email to: foi+request-9959-3120e011@righttoknow.org.au

Dear Rex

Access refusal – documents do not exist

I refer to your email dated 19 February 2023 in which you have requested access, under the *Freedom of Information Act 1982* (Cth), to:

'emails between the Australian Competition and Consumer Commission and: Meta (including Instagram, Facebook, Whatsapp) on the topics of phone addiction or social media addiction.

Below are some constraints that hopefully narrow the scope.

Time frame 2022-01-01 till 2023-02-19

Please exclude drafts (and duplicates)

I'm happy to have all email addresses redacted except for the domain name. eg.

@facebook.com I'm happy to have names of anyone from the public service who's

pay grade is lower than SES1 redacted and for the 3rd parties anyone, unless they

are a director, vice president, some sort of executive officer eg. CFO.

I'm not against any other reasonable redactions just wanted to be upfront.

*Please *exclude* emails that are to/from anyone who has the pay grade of:*

APS1 through APS6, unless someone outside of that pay grade band is included.

For example emails:

To: APS1, APS2 would be excluded

However To: APS1, EL1 would be included.

I am not looking for emails that have been sent solely within the Australia government, only emails that include one of the above companies.'

Decision

I have decided to refuse your request under s.24A(1) of the Act on the basis that the document does not exist.

I am authorised under s.23 of the Act to make this decision.

Reasons for decision

Section 24A(1) of the Act relevantly provides as follows:

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.
 - (ii) does not exist.**

Therefore, we may refuse a request for access to a document if we take all reasonable steps to find that document and we are satisfied that the document does not exist.

The ACCC took the following steps to locate the document:

- A thorough search of our databases to locate any information or documents that relate to your request;
- A thorough search by the relevant ACCC branch for documents within the scope of the request provided by you.
- Confirmation with relevant ACCC staff that no such documents exist;

Based on the nil results of these steps, I conclude that the requested document does not exist within the records of the ACCC.

Rights of review

Your rights of review are set out in Attachment A.

Yours sincerely



Rebecca Fenech
FOI Manager
Specialist Advice and Services Division

Sent by email 21/03/2023

Attachment A

Information on rights of review

ACCC Internal Review

Under s.54 of the FOI Act, you can ask for an internal review of this decision. If you request an internal review request, another officer of the ACCC will review your request and make a new decision.

Timeframe for requesting internal review

You have 30 days from the receipt of this decision to request an internal review.

You may seek an extension to this timeframe with our agreement.

Is there a charge?

There is no charge payable for requesting an internal review.

Requesting an internal review

Your request for internal review must be in writing and indicate that you are seeking an internal review. You will need explain why this decision should be changed.

Please send your internal review request to the FOI Team by either:

Email: foi@acc.gov.au

Post: GPO Box 3131, Canberra ACT 2601

When will the decision be made?

We have 30 days from the receipt of your internal review request to make a decision.

If we do not make a decision within 30 days or such further period as the IC allows, the original decision is considered affirmed. In such circumstances, you can seek review of our deemed decision by the Information Commissioner.

Review by the Information Commissioner

You can ask for a review of this decision by the Australian Information Commissioner (IC). The Office of the Australian Information Commissioner (OAIC) encourages applicants to seek internal review first, however you are not required to go through our internal review process before seeking review by the IC. If you do choose to seek an internal review, you can still seek IC review of the internal review decision if we refuse access to your request.

Timeframe for requesting IC review

You have 60 days from the receipt of an access refusal decision to request IC review.

You may seek an extension to this timeframe from the OAIC.

Is there a charge?

There is no charge payable for requesting an IC review.

Requesting IC review

Your request for IC review must be in writing and include:

- your name and contact details
- a copy of the ACCC's decision that you disagree with (if you've received one)
- the reason(s) why you disagree with the decision

You can lodge your request for IC review in one of the following ways:

Online: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review>

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: foidr@oaic.gov.au

Complaint to the Information Commissioner

You can request the Information Commissioner to investigate action taken by the ACCC in relation to this FOI request. The Information Commissioner will consider your complaint and, if appropriate, conduct an investigation. Any investigation will be completely independent.

Is there a charge?

There is no charge payable for making a complaint to the IC.

Lodging an IC complaint

You must lodge your complaint in writing and give a clear and brief description of each issue you're complaining about and what outcome you'd like.

You can lodge a complaint in one of the following ways:

Online: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint>

Post: GPO Box 5218, Sydney NSW 2001

Fax: +61 2 9284 9666

Email: foidr@oaic.gov.au