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Our ref: PRJ1007950
Contact officer: FOI team
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7 November 2024

www.accc.gov.au

Ash Roth

Sent via email to: foi+request-12027-3f02b62b@righttoknow.org.au

Dear Ash,

Access refusal – documents do not exist

I refer to your email of 8 September 2024 and subsequent email of 10 September 2024 in which you clarified your request for access, under the *Freedom of Information Act 1982* (Cth), to:

'I am seeking copies of all communication between the ACCC and The Australia Institute (including people acting on behalf of the Australia Institute) from 1 March 2024 to 31 August 2024 regarding competition policy changes, merger reform policy and legislative reform.'

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 in the relevant ACCC records management system and email mailboxes by staff in the Executive Office, Merger Reform Branch and Competition Enforcement, Co-ordination and Strategy Branch for documents matching, or similar to, the scope of the request provided by you.
- Confirmation with relevant ACCC staff that no such document exists.

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 7/11/2024

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:

Email: xxx@xxxx.xxv.au

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 online:

Online: <https://www.oaic.gov.au/contact-us#reviews>

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 online:

Online: <https://www.oaic.gov.au/contact-us#complaints>