

Section 22

From: FOI
Sent: Friday, 28 November 2014 4:31 PM
To: Section 47F @atia.com.au
Subject: TRIM: Re: Freedom of Information Request to Treasury [SEC=UNCLASSIFIED]
Attachments: FOI 1618 Letter to Mr Davies.pdf

Dear Mr Davies

Please find attached correspondence in relation to your FOI request of 14 November 2014.

Regards

FOI Team
Parliamentary and Legal Services Unit
Ministerial and Communications Division
The Treasury, Langton Crescent, Parkes ACT 2600
Phone: (02) 6263 2800
Email: foi@treasury.gov.au



28 November 2014

File: ER2014/05431
FOI ref: 1618

Mr Blair Davies
PO Box 1388
NORTH LAKES QLD 4509

Section 47F [@atia.com.au](mailto:atia.com.au)

Dear Mr Davies

FREEDOM OF INFORMATION REQUEST

I refer to your email of 14 November 2014 in which you sought access to documents under the *Freedom of Information Act 1982* (the Act), in particular:

"1. All records (including e-mails, text messages, memos, file notes, letters, source documents, reference documents, advices, briefing papers, working papers, position papers, documented analysis, reports or other documentation) held in the Commonwealth Treasury Department relating to the preparation, and/or publishing, of "Box 1.1: Regulatory treatment of the sharing economy the example of Uber", on page 19 of the Competition Policy Review Draft Report September 2014 (ISBN 978-1-925220-08-07).

2. All records (including e-mails, text messages, memos, file notes, letters and other documentation) of advice, analysis, briefing papers, working papers, position papers, reports or other documentation held in the Commonwealth Treasury Department that mentions or otherwise references the company Uber Australia Pty Ltd, Uber's products and /or services, or ride-sharing services in general (including ridesharing, rideshare services and ride-share services)."

I am an authorised decision maker under section 23 of the Act.

I am intending to refuse your request under section 24AA of the Act because the work involved in processing the request, in particular part 2, would substantially and unreasonably divert the resources of the agency from its other operations.

Our initial searches suggest that a large number of documents could fall within the scope of your request. I believe that processing your request in its current form would be a substantial and unreasonable diversion of departmental resources under section 24AA of the Act.

In regard to part 1 of your request, I advise that the information sought is publicly available and therefore not available under Section 12 (1)(b) of the Act. I provide the following links to the four source documents used in the preparation of Box 1.1 to assist you in locating this information:

http://competitionpolicyreview.gov.au/files/2014/07/NSW_Govt.pdf

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M077/K112/77112285.PDF>

<http://www.smh.com.au/digital-life/smartphone-apps/uber-pledges-to-pay-1700-ridesharing-driver-fines-in-victoria-20140523-zrlnh.html>

<http://www.smh.com.au/business/uber-illegal-and-drivers-will-be-fined-says-south-australia-government-20140825-1082cc.html>

If you wish to discuss your request further, please contact Section 22 _____, Senior Adviser — Parliamentary and Legal Services Unit on: (02) 6263 2800 or at: FOI@treasury.gov.au during the consultation period, which runs for 14 days and commences the day after the date of this letter.

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.

If you do not do one of the three things listed above during the consultation period or you do not consult the contact person during this period, your request will be taken to have been withdrawn.

A copy of sections 24AA and 24AB are at **Attachment A**.

Yours sincerely

Section 22

Secretary
Competition Policy Review

24AA When does a practical refusal reason exist?

(1) For the purposes of section 24, a practical refusal reason exists in relation to a request for a document if either (or both) of the following applies:

(a) the work involved in processing the request:

(i) in the case of an agency—would substantially and unreasonably divert the resources of the agency from its other operations; or

(ii) in the case of a Minister—would substantially and unreasonably interfere with the performance of the Minister's functions;

(b) the request does not satisfy the requirement in paragraph 15(2)(b) (identification of documents).

(2) Subject to subsection (3), but without limiting the matters to which the agency or Minister may have regard, in deciding whether a practical refusal reason exists, the agency or Minister must have regard to the resources that would have to be used for the following:

(a) identifying, locating or collating the documents within the filing system of the agency, or the office of the Minister;

(b) deciding whether to grant, refuse or defer access to a document to which the request relates, or to grant access to an edited copy of such a document, including resources that would have to be used for:

(i) examining the document; or

(ii) consulting with any person or body in relation to the request;

(c) making a copy, or an edited copy, of the document;

(d) notifying any interim or final decision on the request.

(3) In deciding whether a practical refusal reason exists, an agency or Minister must not have regard to:

(a) any reasons that the applicant gives for requesting access; or

(b) the agency's or Minister's belief as to what the applicant's reasons are for requesting access; or

(c) any maximum amount, specified in the regulations, payable as a charge for processing a request of that kind.

24AB What is a *request consultation process*?*Scope*

(1) This section sets out what is a request consultation process for the purposes of section 24.

Requirement to notify

(2) The agency or Minister must give the applicant a written notice stating the following:

- (a) an intention to refuse access to a document in accordance with a request;
- (b) the practical refusal reason;
- (c) the name of an officer of the agency or member of staff of the Minister (the contact person) with whom the applicant may consult during a period;
- (d) details of how the applicant may contact the contact person;
- (e) that the period (the consultation period) during which the applicant may consult with the contact person is 14 days after the day the applicant is given the notice.

Assistance to revise request

(3) If the applicant contacts the contact person during the consultation period in accordance with the notice, the agency or Minister must take reasonable steps to assist the applicant to revise the request so that the practical refusal reason no longer exists.

(4) For the purposes of subsection (3), reasonable steps includes the following:

- (a) giving the applicant a reasonable opportunity to consult with the contact person;
- (b) providing the applicant with any information that would assist the applicant to revise the request.

Extension of consultation period

(5) The contact person may, with the applicant's agreement, extend the consultation period by written notice to the applicant.

Outcome of request consultation process

(6) The applicant must, before the end of the consultation period, do one of the following, by written notice to the agency or Minister:

- (a) withdraw the request;
- (b) make a revised request;
- (c) indicate that the applicant does not wish to revise the request.

(7) The request is taken to have been withdrawn under subsection (6) at the end of the consultation period if:

- (a) the applicant does not consult the contact person during the consultation period in accordance with the notice; or
- (b) the applicant does not do one of the things mentioned in subsection (6) before the end of the consultation period.

Consultation period to be disregarded in calculating processing period

(8) The period starting on the day an applicant is given a notice under subsection (2) and ending on the day the applicant does one of the things mentioned in paragraph (6)(b) or (c) is to be disregarded in working out the 30 day period mentioned in paragraph 15(5)(b).

Note: Paragraph 15(5)(b) requires that an agency or Minister take all reasonable steps to notify an applicant of a decision on the applicant's request within 30 days after the request is made.

No more than one request consultation process required.

(9) To avoid doubt, this section only obliges the agency or Minister to undertake a request consultation process once for any particular request.