

Senate Standing Committee on Environment and Communications

Answers to Senate Estimates Questions on Notice

Supplementary Budget Estimates Hearings November 2014

Communications Portfolio

NBN Co Limited

Question No: 183

Program No. NBN Co

Hansard Ref: In Writing

Topic: FOI

Senator Urquhart asked:

1. Has NBN Co management provided any direction to the legal team on responding to FOI requests?
2. Is NBN Co aware of its obligation under the FOI Act that the functions and powers given by the FOI Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost?
3. Does NBNCo consider it acceptable that the FOI team consistently provides answers to requests at the end of the defined legal period rather than as soon as possible? E.g. sample from <http://righttoknow.org.au>:
 - a. Average acknowledgement 11 days
 - b. Average deposit request 26 days (5 samples all either 25 or 27)
 - c. Average review period 36 days
 - d. Average internal review 23 days (3 at almost exactly 30, one 2)
4. Are NBN Co FOI Officers aware of their obligations to assist requesters in finding specific information and minimizing cost?
5. Do NBN Co FOI Officers assist requesters in finding specific information and minimizing cost? Please provide examples.
6. Have NBN Co FOI Officers been given direction in what constitutes "commercial operations" vs public interest, and its inconsistent application to FOI requests dealing with design contract instructions?
7. Does NBN Co consider it acceptable to be seeking from private citizens varying amounts of \$100-\$800 for decision making time for documents? For example:
 - a. 24hrs @ \$480 for Program Summary Report
 - b. 10hrs @ \$200 of decision making for only Table of Contents of Program Summary Report

Answer:

1. No. Decisions made by NBN Co's FOI Officer are made independently, based on the FOI Officer's understanding and application of the FOI legislation, case law, guidelines and facts related to the relevant documents. NBN Co's FOI team will discuss specific FOI matters with relevant business stakeholders in relation to their commercial impact or in relation to other factual matters.
2. Yes.
3. Between 1 June 2014 and 31 December 2014, NBN Co completed all FOI requests within the processing deadlines (including permitted extensions) outlined in the FOI Act and as per the OAIC Guidelines.
4. Yes.

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5. Yes. For example, between 1 June 2014 and 31 December 2014, NBN Co received 24 FOI requests. Of those requests, NBN Co's FOI team assisted requesters in finding specific information and minimizing cost in 18 of those requests, either through a formal request consultation process, pursuant to the FOI Act or through informal discussions directly with the applicant regarding the scope of the their request.
6. No. See the response given in answer 1. Furthermore, NBN Co's FOI Officer must consider each FOI decision afresh as at the date of each decision. As a consequence, the considerations that are relevant to be taken into account in each FOI decision may not be the same as those previously faced by the company.
7. NBN Co's general policy is to charge applicants for FOI processing time. This policy reflects the Commonwealth Parliament's and the community's recognition that public servants' time is a valuable resource and that such resources should only be spent in appropriate public undertakings. The figures provided as examples in the question were indicative estimates of the decision making time likely to be required by the NBN Co Officer, having regard to the complexity of those specific FOI requests and the fees set out under the FOI Act and Regulations.