



14 December 2023

Ref: DOIA 2324-0979

Wayne Hudson

Email: fyi-request-24324-69792e39@requests.fyi.org.nz

Dear Mr Hudson

Request for information pursuant to the Official Information Act 1982

1 I refer to your correspondence to the Ministry of Business, Innovation & Employment (**MBIE**) dated 1 November 2023 seeking the following information pursuant to the Official Information Act 1982 (**the OIA**):

2 You sought:

“Please provide all information around your consideration of s274(10) of the Patents Act and the inclusion of section 274(9) and (10) when they were inserted (from the Australian legislation):

“Compare: Patents Act 1990 ss 201, 201A (Aust); Arrangement between the Government of Australia and the Government of New Zealand Relating to Trans-Tasman Regulation of Patent Attorneys, 2013 cl 3.3(e)”

“Section 274: inserted, on 24 February 2017, by section 5 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).”

3 On 16 November 2023 Ms Gillian Sharp, Manager Corporate Governance and Intellectual Property Policy, wrote to you seeking clarification of what you meant by “all information around consideration’ in the context of your request and what time period you were interested in.

4 On 21 November 2023 you responded to Ms Sharp’s letter and clarified that you were requesting:

“I have been provided a document, authored by Bryce Rayner of MBIE, stating that MBIE has undertaken a legal interpretation of the Act and has voluntarily provided the same to an external party.

“Please provide me with all information, including legal advice, related to the interpretation by MBIE of s274(10)(c) of the Patents Act 2013 (including information received from 3rd parties), and all internal correspondence within MBIE on this subject, together with all external correspondence with Callaghan Innovation, other government agencies, industry bodies and all other 3rd parties.”

- 5 For the purposes of this response your request has been interpreted as seeking:
- a. All information related to the interpretation by MBIE of section 274(10)(c) of the Patents Act 2013 in carrying out the investigation undertaken by Bryce Rayner; and
 - b. All information related to any interpretation by MBIE of section 274(10)(c) of the Patents Act 2013 that may have been carried out in the commissioning of guidelines from Callaghan Innovation, other government agencies, industry bodies and all other third parties.
- 6 On 29 November 2023 we advised you that further consultation was necessary before a decision could be made on your request. Section 15A(1)(b) of the OIA was relied upon to extend the timeframe for the Ministry to respond to your request.
- 7 You were advised that an extension of 20 working days was needed and your request would now be responded to on or before 18 January 2024.
- 8 The necessary further consultation has been undertaken.
- 9 In response to paragraph 5.a., your request is refused pursuant to section 9(2)(h) of the OIA on the ground that ***the withholding of the information is necessary to maintain legal professional privilege.***
- 10 In response to paragraph 5.b., your request is refused pursuant to section 18(e) of the OIA on the ground that ***the document alleged to contain the information requested does not exist.***
- 11 Under section 28(3) of the OIA, you have the right to seek an investigation and review of this response by the Ombudsman, whose address for contact purposes is:
- The Ombudsman
Office of the Ombudsman
PO Box 10-152
Wellington 6143
Freephone: 0800 802 602
Email: info@ombudsman.parliament.nz
- 12 If any further information is required in relation to this request, please contact Bryce Rayner via his email address bryce.rayner@mbie.govt.nz.

Sincerely



Vanessa Cook
National Manager, Criminal Proceeds Integrity and Enforcement (Acting)
Ministry of Business, Innovation and Employment