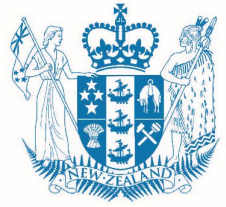


Hon Andrew Bayly

Minister of Commerce and Consumer Affairs
Minister for Small Business and Manufacturing
Minister of Statistics



15 March 2024

Ben
Email: fyi-request-25581-8f2c1b47@requests.fyi.org.nz

ABOIA 2024-009

Dear Ben,

I refer to your request on 31 January 2024 to the Ministry of Business, Innovation and Employment (MBIE), under the Official Information Act 1982 (the Act), requesting information related to my announcement that I intend to transfer responsibility for consumer credit legislation to the Financial Markets Authority (FMA). As you are aware, your request was transferred to me on 15 February 2024.

The details of your request were as follows:

"Today the Minister of Commerce and Consumer Affairs has announced that the "conduct oversight of the Credit Contracts and Consumer Finance Act (CCCFA) currently performed by the Commerce Commission will transfer to the FMA" ("the decision").

I write to request:

1. Copies of all information or documents in relation to this decision by the minister, including:

*1(a) Advice received from MBIE (or any other department) on the decision **(Request 1)***

*1(b) Who was consulted by MBIE or the Minister prior to announcement of the decision, and on what date **(Request 2)***

*1(c) All estimates of the cost of transferring the function to the FMA **(Request 3)***

*1(d) When MBIE or the Minister advised the FMA of the decision **(Request 4)***

*1(e) When MBIE or the Minister advised the Commerce Commission of the decision **(Request 5)***

*1(f) What steps were taken to manage the impact of the announcement on affected employees of the Commerce Commission **(Request 6)***

*2 Copies of all previous advice provided to previous Ministers of Commerce & Consumer Affairs regarding the location of this function within the FMA or Commerce Commission. **(Request 7)***

In making this request I am not requesting the details of any staff named in these documents and am happy for their names and contact details to be redacted, provided their position is included."

Request 1: Advice received on the decision

I am releasing the documents falling within the scope of this request. These are listed in the table below, including the grounds on which any information has been withheld.

Date	Title	Response	Relevant provisions under the OIA
4 December 2023	Briefing - Addressing issues with consumer credit legislation: scope and timing of reforms	Released with some information withheld	S 9(2)(a)
23 January 2024	Cabinet Paper - Proposals to review the Financial Markets (Conduct of Institutions) Amendment Act 2022 and the Credit Contracts and Consumer Finance Act 2003.	Refuse	Section 18(d) The document will be available on 13 March 2024 on Document library Ministry of Business, Innovation & Employment (mbie.govt.nz)
24 January 2024	Event briefing – Meeting with Financial Markets Authority board on 26 January 2024	Released with some information withheld	S 9(2)(a) Annex 5 is refused under Section 18(d). The document is already available on BIM - Minister of Commerce and Consumer Affairs - FMA.pdf (beehive.govt.nz)

Some of the information in the documents has been withheld under the Act, as follows:

- section 9(2)(a) – withholding information to protect the privacy of natural persons.

I do not consider that the withholding of this information is outweighed by public interest considerations in making the information available.

A Cabinet paper that falls within the scope of your request has been refused on the grounds that it is already publicly available (on MBIE's online document library, www.mbie.govt.nz/document-library/), namely:

- Proposals to review the Financial Markets (Conduct of Institutions) Amendment Act 2022 and the Credit Contracts and Consumer Finance Act 2003.

Request 2: Consultation prior to the decision

Prior to the decision, on January 19, MBIE conducted a consultation process, on a draft version of the Cabinet Paper titled "Proposals to review the Financial Markets (Conduct of Institutions) Amendment Act 2022 and the Credit Contracts and Consumer Finance Act 2003". Several agencies were consulted by MBIE during this process: the Treasury, the Commerce Commission, the Financial Markets Authority, the Reserve Bank of New Zealand, the Department of the Prime Minister and Cabinet.

The draft document reflected the benefits I see in bringing together responsibility for financial markets conduct and the CCCFA into a single package, and that reviewing whether responsibility for the CCCFA should sit with the FMA as conduct regulator will be explored as part of phase two of the review of the CCCFA.

Request 3: Cost estimates for the transfer

No estimates of the cost of transferring the responsibility for the CCCFA to the FMA was available prior to the announcement. I am therefore refusing this part of your request under section 18 (e) of the Act, that the document alleged to contain the information requested does not exist.

Request 4: When the FMA was advised

On January 16 2024, I had a meeting with the Chief Executive of the FMA, followed by another meeting with the Board of the FMA on January 26. During these meetings, I shared my intention to explore whether responsibility for the CCCFA should sit with the FMA.

Request 5: When the Commerce Commission was advised

Before I made the decision, on 19 January, MBIE shared a draft Cabinet Paper with the Commerce Commission, which outlined my plans to review the Financial Markets (Conduct of Institutions) Amendment Act 2022 and the CCCFA. It also mentioned that as part of phase 2 of the CCCFA review, I will be exploring whether the responsibility for the CCCFA should be with the FMA as the conduct regulator. After the announcement, I had a chance to meet with Commissioners and the Commission's staff to discuss the decision further.

Request 6: Steps taken to manage the impact on the Commerce Commission's staff

The Commerce Commission's response steps are related to them. Please contact the agency for further information.

Request 7: Advice to previous Ministers

I am releasing the documents falling within the scope of this request. These are listed in the table below, including the grounds on which any information has been withheld.

Date	Title	Response	Relevant provisions under the OIA
16 March 2012	Briefing - Consideration of the appropriate regulator for monitoring and enforcement of the Credit Contracts and Consumer Finance Act	Released with some information withheld	S 9(2)(a)

8 June 2012	Aide memoire - Regulator for monitoring and enforcement of the Credit Contract and Consumer Finance Act	Released in full	N/A
27 April 2018	Briefing - Feedback on CCCFA Review Discussion Paper	Released with some information withheld	S 9(2)(a)
15 August 2018	Briefing - Consumer credit review, final policy recommendations briefing B	Released with some information withheld	S 9(2)(a)

Some of the information in the documents has been withheld under the Act, as follows:

- section 9(2)(a) – withholding information to protect the privacy of natural persons.

I do not consider that the withholding of this information is outweighed by public interest considerations in making the information available.

Please note you have the right under section 28(3) of the Official Information Act 1982 to seek a review of this response by the Ombudsman. The Ombudsman has an online complaints form at <http://www.ombudsman.parliament.nz/make-a-complaint/make-a-complaint-now/make-a-complaint-online-now>. A complaint can also be made by e-mail at info@ombudsman.parliament.nz or by post at:

The Ombudsman
PO Box 10 152
WELLINGTON 6143

Yours sincerely,



Hon Andrew Bayly
Minister of Commerce and Consumer Affairs