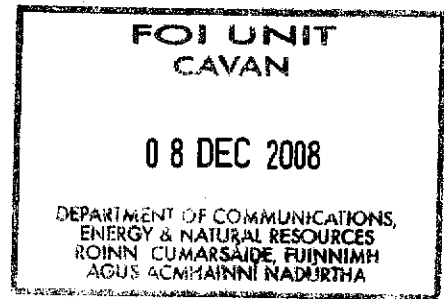


FOI Request



Hello,

Enclosed is a postal order for €15 euros for an FOI request.

Request:

DCMNR and ComReg, DCMNR and Digiweb

1

(a) All documents between July 07 to present including notes of meetings, telephone calls, internal memos and correspondence about Ministerial Directions/Directives to ComReg. This would include external representations and internal discussion of directions formulated internally and externally.

(b)

Details of representations by Digiweb to the Department of Communications previous to the launch of the National Broadband Scheme Tender in regards to a project to provide broadband to areas of Ireland not serviced by existing broadband providers.

I do not wish to access a large amount of documents so I am open to chat with the FOI officer to see what can be done to reduce researching and collating of this information where necessary. I would like to get this documentation in electronic form.

Thank you for your time,

FOI 2008/63

7 January 2009

Dear

I refer to your FOI request under Section 7 of the Freedom of Information Acts 1997 and 2003, received in this office on 8 December 2008 for access to records held by this Department as detailed beneath.

(a) All documents between July 07 to present including notes of meetings, telephone calls, internal memos and correspondence about Ministerial Directions/ Directives to ComReg. This would include external representations and internal discussion of directions formulated internal internally and externally.

(b) Details of representations by Digiweb to the Department of Communications previous to the launch of the National Broadband Scheme Tender in regards to a project to provide broadband to areas of Ireland not serviced by existing broadband providers.

I respond to your request as follows:

In response to (a) above, I have made a final decision to refuse your request, insofar as it relates to this Division under Section 10(1) (a) of the Act which stipulates that an FOI request may be refused if:

'The record concerned does not exist or cannot be found after all reasonable steps to ascertain its whereabouts have been taken.'

I have hereunder listed the steps this Division has taken to locate the records and the outcome of these steps.

Search steps undertaken:

1. interviews with individual members of staff who may have dealt with such records;
2. circulation to staff of this Division, the definition of the records sought and stressed the need for all staff to carefully consider if they were aware of, or could find, any such records;
3. a search of the electronic databases and records held by the Division, both on mainframe computers and individual staff computers, and;
4. A physical search of all relevant areas of the Division in which the records sought might possibly be held.

In choosing these steps, this Division has tried to maximise the chance that the records will be found. It has not found the records, or discovered any indication that they ever existed. In view of the wide-ranging but unsuccessful searches undertaken, I find that, so far as I am able to determine, the records sought do not exist. Therefore, in accordance with the requirements of Section 10(1) (a) I am refusing the request.

Re Section (b) of the request, I have made a final decision to refuse your request and I enclose a schedule of the records covered by your request with this letter.

The following explains the decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request and the relevant findings; and
2. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these parts in turn.

1. Schedule of records

A schedule is attached at the end of this letter. It shows the documents that this Department considers relevant to your request. It also gives you a summary and overview of the decision as a whole. The schedule describes each document, and indicates whether the document is released in full, released with deletions or not released. The schedule refers to the sections of the FOI Act which apply to prevent release.

Findings, particulars and reasons for decisions to deny access.

I am withholding all the documents requested by you in part (b) of your request under

- Section 26(1)(a) Information obtained in confidence
- Section 27(1) (b) exempts commercially sensitive information.
- Section 27(1) (c) exempts records relating to information whose disclosure could prejudice the conduct or outcome of contractual or other negotiations of the person to whom the information relates.

Factors in favour of disclosure:

1. The right of the public to have access to information.
2. Openness and transparency of the decision making process.
3. There is a general interest in the disclosure of documents which relate to issues affecting the wider community.

Factors in favour of non disclosure:

1. Need to protect the right of the Department to obtain information in confidence in order to carry out its functions.
2. Need to protect the duty of confidence owed to individual who provided information in confidence for the specific purpose of their proposal on the understanding that it would be treated in confidence.
3. Need to preserve confidentiality, having regard to the subject matter and the circumstances of the communication.
4. Release could lead to adverse competitive position for the company;
5. The company concerned should not be unduly impeded in the effective pursuit of their business.
6. The business and financial affairs of organisations should generally remain confidential to that organisation.
7. The details mentioned in the documents are clearly prima facie exempt within the category "commercially sensitive information".

In my opinion of the balance of the public interest lies against the release of the data.

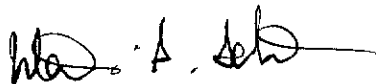
2. Right of appeal

You may appeal this decision. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, FOI Unit, Dept. Communications, Energy & Natural Resources, Elm House, Earlsvale Road, Co. Cavan.

Your correspondence should include a fee of €75 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to Dept. Communications, Energy & Natural Resources.

You should make your appeal within 4 weeks from the date of this notification. However, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this Department.

Yours sincerely,



Marian Salmon
Communications Development Division
Adelaide Road
Dublin 2

FOI Request Reference:

63/2008

Schedule of Records:

Record No.	Brief Description & Date of Record	File Ref.	No. of Pages	Decision: Grant/Part Grant/ Refuse	Basis of Refusal: Section of Act
1	Follow Up On Digiweb Presentation email from John Quinn, Digiweb to Peadar Ward, DCENR 21 March 2006	NBS\Planning\service providers	2	Refused	Section 27 of the FOI Act 1997 - 2003 Commercially Sensitive Information
2	Digiweb Presentation July 2006 "Achievement of 100% Broadband availability in Ireland Utilising Fixed and Mobile Wireless Technology" (Word Document) together with covering email dated 25 June 2006	NBS\Planning\service providers	20	Refused	Sections 26 of the FOI Act 1997 - 2003 - Information obtained in confidence Section 27 of the FOI Act 1997 - 2003 Commercially Sensitive Information
3	Report of Ministers meeting with Digiweb 13 th July 2006 (Word Document)	NBS\Planning\service providers	1	Refused	Section 27 of the FOI Act 1997 - 2003 Commercially Sensitive Information