

18 March 2024

Thomas Gray

By email only to: [fyi-request-25800-62cd3e95@requests.fyi.org.nz](mailto:fyi-request-25800-62cd3e95@requests.fyi.org.nz)

Tēnā koe

**Official Information Act Request (Our Ref: OIA/0342)**

We refer to your Official Information Act request of 20 February 2024.

**Your request**

Under the Official Information Act 1982, I seek comprehensive access to all information held by the Office of the Privacy Commissioner pertaining to any privacy breaches by TOMRA Food, specifically concerning its employees. This request covers the period from Thursday, 15th February 2024, at 12.00 PM NZST to Tuesday, 20th February 2024, at 5.00 PM NZST.

On 25 February 2024 you requested an extension to the date range and asked us to extend your request to include up to Sunday, 25 February 10.00 am NZST.

I request the following information:

- a. Detailed Records of any complaints, allegations, or notifications of privacy breaches by TOMRA Food, and all its legal entities in New Zealand Compac Sorting Equipment Ltd, BBC Technologies Ltd, and any other NZ based entity owned or operationally by TOMRA Systems ASA.
- b. Investigation Documents, including but not limited to findings, reports, interviews, and correspondence between TOMRA Food and the Office of the Privacy Commissioner.
- c. Actions Taken, such as recommendations, directives issued to TOMRA Food, and any compliance or follow-up actions taken by TOMRA Food in response.
- d. Internal Communications within the Office of the Privacy Commissioner related to TOMRA Food's privacy practices and breaches.
- e. Guidance or Advice provided to TOMRA Food regarding privacy practices, including preventive measures and corrective actions recommended.
- f. Impact Assessments or analyses on the effects of the breaches on employees and stakeholders.

Should any part of this information be withheld, please inform me of the specific sections of the Act under which the information is being withheld, along with guidance on how to appeal such decisions.

**My response**

Your request as extended is refused under section 18(c)(i) of the Official Information Act 1982 on the grounds that making available the information would be contrary to the provisions of a specified enactment, i.e. the Privacy Act 2020. Section 206 of the Privacy Act requires the Privacy Commissioner and his Office to maintain secrecy in respect of all matters that come to our knowledge in the exercise of the Commissioner's functions under the Privacy Act.

However, I can confirm that the Office of the Privacy Commissioner received notification of the privacy breach and engaged with the reporting entity. This breach notification file is now closed.

**Confidentiality of the Privacy Commissioner's process for receiving reports of privacy breaches**

Our Office maintains a confidential process relating to the reporting of privacy breaches to enable the Privacy Commissioner to independently assess the information provided and review and investigate as may be required. This is explained in our Compliance and Regulatory Action Framework available [here](#)<sup>1</sup>:

Our secrecy obligations mean that in general we do not release information we have received from an individual or agency to the agency or individual concerned, other agencies or individuals, or the media. This allows both agencies and individuals to provide information to us confident that it will not be passed on. For example, during an investigation of a complaint we will not share information between parties.

As highlighted above, the reason for the secrecy obligation is to ensure that parties to OPC's processes have assurance that their information is treated in confidence. This maintains OPC's ability to review and/or investigate matters in confidence and to acquire confidential information to support OPC's functions and processes.

The application of secrecy is necessary in this context to achieve the regulatory objectives under the Privacy Act to require agency accountability and compliance under the Privacy Act. OPC's regulatory function here is to receive reports of incidents to assess whether a matter requires investigation. Confidentiality of correspondence is necessary to maintain OPC's independent role as the recipient of these reports and to encourage reporting for regulatory purposes.

**My response**

Your request as extended is refused under section 18(c)(i) of the Official Information Act 1982 on the grounds that making available the information would be contrary to the provisions of a specified enactment, i.e. the Privacy Act 2020.

**Conclusion**

If you have been affected by a privacy breach, and wish to make a complaint or an enquiry, you can contact our Enquires team ([enquiries@privacy.org.nz](mailto:enquiries@privacy.org.nz))

---

<sup>1</sup> <https://privacy.org.nz/about-us/what-we-do/caraf/>

If you are not satisfied with this response, under section 28 of the Official Information Act, you have the right to ask the Ombudsman to investigate and review my decision on your request, however we would appreciate the opportunity to discuss this with you first.

Nāku iti noa, nā

Elizabeth MacPherson

Liz MacPherson  
**Deputy Privacy Commissioner**