



***FREEDOM OF INFORMATION ACT
& PRIVACY ACT
HANDBOOK***

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I. INTRODUCTION

The purpose of this Handbook is to describe how the Freedom of Information Act ("FOIA") is administered at the Federal Trade Commission ("FTC"). Each Federal agency handles requests for its own records. If you would like to request documents that may be found at several agencies, you must send a separate request to each of those agencies. Each agency's rules are different, and this Handbook covers only the rules of the FTC. If you need the FTC's formal regulations, they can be found at 16 C.F.R. §§ 4.8 through 4.11. You also may wish to consult our **Common FOIA Misconceptions** (page 17 of this Handbook) before submitting your FOIA request. You may also want to check our [Frequently Requested Records](#) page to see if your area of interest has already been responded to. If you have questions that this Handbook does not answer, contact the FTC FOIA Office by phone at (202) 326-2430; by fax at (202) 326-2477; or by e-mail at FOIA@FTC.GOV.

II. WHAT IS THE FREEDOM OF INFORMATION ACT?

The FOIA is a federal law that provides for public access to Federal government records in two ways. First, the FOIA requires that agencies proactively make public certain types of records. These records are available on the [Office of Secretary's](#) webpage or in the Federal Register. Second, it allows the public to request copies of records that are not routinely placed on the FTC's public record. The goal of the FOIA is to make all Federal government agency records available to the public, unless release of the information would cause a specific harm. The FOIA describes nine categories of records that are exempt from FOIA, this means that agencies need not disclose certain records because of the potential harm that disclosure would cause.

The FOIA does not require an agency to create records, conduct investigations, develop or analyze information to answer questions. While we cannot give you specific advice, the information we may provide could assist you in reaching your own conclusions. If you have a question, our FOIA staff can help you request the records that will be most likely provide the information you seek, assuming that information can be found in existing records and is not subject to one or more of the FOIA exemptions.

III. THE PUBLIC RECORD

The FTC routinely posts many documents on its "public record." There is no need to file a formal FOIA request to obtain to those documents.

Most public records are readily available on the FTC's website at www.ftc.gov. While public records created before 1997 may not be available online, you may be able to get them by calling the FTC's Reading Room at (202) 326-2222, extension 2. Written requests for public material should be made to:

[Consumer Response Center \("CRC"\)](#)
Federal Trade Commission
Room 630
600 Pennsylvania Avenue, NW
Washington, DC 20580

All requests should clearly and accurately describe the records you want.

Requests for documents already on the public record are subject to search and duplication costs, as provided in the Commission's Rules of Practice, [16 C.F.R. § 4.8](#). Because the cost depends on whether the person asking for them is a private person, a member of the news media, or a commercial entity, your request must contain enough information to show your fee category. Each request must also include either an agreement to pay fees or a request for a fee waiver. More information about the Commission's fee regulations can be found in Sections VII(C) and XIII below.

If requested materials are available for sale at another government agency, the requester will not be provided with copies of the materials but will be directed to the selling agency.

A complete list of the types of records that are routinely placed on the public record can be found in the FTC Rules of Practice, [16 C.F.R. § 4.9](#). Some of the more common types of records are:

- **Commission Organization and Procedures** (administrative staff manuals; statements of the Commission's procedures and policies; records of votes on public Commission matters; reprints of the principal laws under which the Commission enforces or administers; and a description of the Commission's organization).
- **Industry Guidance** (any advice, advisory opinion, or response given and required to be made public under 16 C.F.R. §§ 1.4 and 2.41 (d) or (f); transcripts of hearings in industry guide proceedings; petitions related to industry guides; industry guides themselves; and digests of advisory opinions and compliance advice).
- **Rulemaking** (petitions related to rules and regulations; notices and advance notices of rulemaking; rules and orders issued in rulemaking proceedings; transcripts of all rulemaking proceedings, all other materials distributed to the public during these proceedings, and written statements or comments submitted to the Commission in connection with these proceedings).
- **Investigations** (petitions to limit or quash compulsory process and FTC responses and closing letters its investigations).
- **Adjudicative Proceedings, Stay Applications, Requests to Reopen, and Litigated Orders** (public pleadings; transcripts of testimony and oral arguments; exhibits and material received in evidence; initial decisions of administrative law judges; orders and opinions in interlocutory matters; final orders and opinions, including separate statements of Commissioners; records filed by the Commission with the courts in connection with adjudicative, injunctive, enforcement, compliance, and condemnation proceedings; and orders of the courts).
- **Consent Agreements** (agreements containing orders, after acceptance by the Commission; comments filed concerning proposed consent agreements; and final decisions and orders issued after the comment period, including separate statements of Commissioners).
- **Compliance/Enforcement** (reports of compliance; and applications for approval of proposed divestitures, acquisitions, or similar transactions).
- **Access to Documents and Meetings** (letters requesting access to Commission records under the FOIA and letters granting or denying the requests; announcements of Commission meetings under the Sunshine Act, including records of the votes to close such meetings; summaries or other explanatory materials relating to matters to be considered at open meetings; and minutes of open meetings and nonexempt portions (or summaries) of closed meetings; a guide for requesting records or information from the Commission, including a description of major information and record locator systems).
- **Standards of Conduct** (memoranda to staff elaborating or clarifying standards

- described in administrative staff manuals).
- **Other** (press releases; grants of early termination of waiting periods under the Hart-Scott-Rodino statutory premerger notification provisions; informal interpretations of the premerger Rules given by FTC staff in response to requests for advice on proposed mergers (redacting all party identifiers); applications for clearance or authorization to appear or participate in a proceeding or investigation and agency responses; continuing guaranties filed under the Wool, Fur, and Textile Acts; published reports by the staff or by the Commission on economic surveys and investigations of general interest; filings by the Commission or by the staff submitted to other Federal agencies or state or local government bodies; registration statements and annual reports filed with the Commission by export trade associations; identities of holders of registered identification numbers (referred to as "RN Numbers") issued by the Commission; and the Commission annual report and any other annual reports made to Congress on activities of the Commission).

IV. TYPES OF COMMONLY REQUESTED NON-PUBLIC FTC RECORDS

The most frequently requested categories of FTC records requested under the FOIA are (A) consumer complaints, (B) material relating to investigations, and (C) administrative records.

A. Consumer Complaints

The FTC maintains computer databases containing consumer complaints submitted to the FTC and other law enforcement and consumer protection agencies. Most complaints are submitted electronically. We can often provide information from consumer complaints entered into the computer databases. If the number of responsive complaints is very great, we will contact you to discuss ways of modifying your request to address your needs, while minimizing processing costs.

B. Investigative Records

The FTC enforces a number of Federal antitrust and consumer protection laws. Records created during law enforcement investigations can include commercial or financial information submitted by businesses, inter and intra-agency memoranda and letters, attorney opinions and notes, and decisions or orders regarding investigations and adjudicative proceedings. Many of the records that fall into this category will have information that cannot be made public because it falls within one of the FOIA exemptions.

C. Administrative Records

While many administrative records are public some may only be accessed through a FOIA request. These can include finance and contract documents, personnel records, and information technology records. Administrative records, like any other Commission record, are subject to the FOIA's exemptions.

V. EXEMPTIONS TO THE FOIA

A. The Nine Exemptions

The purpose of the FOIA is to make government information available to the public. However, the statute recognizes that disclosure of certain kinds of information would be harmful. For this reason, the FOIA exempts nine categories of information from the general

mandatory disclosure rule, and excludes certain records from coverage under the FOIA.

- Exemption 1: Classified national defense and foreign relations information**
- Exemption 2: Internal personnel rules and practices**
- Exemption 3: Information that is prohibited from disclosure by another federal law**
- Exemption 4: Trade secrets and confidential commercial or financial information**
- Exemption 5: Inter-agency or intra-agency communications protected by legal privileges**
- Exemption 6: Information involving matters of personal privacy**
- Exemption 7: Certain types of information compiled for law enforcement purposes**
- Exemption 8: Information relating to the supervision of financial institutions**
- Exemption 9: Geological information concerning wells**

These are the most common exemptions that apply to FTC records:

Exemption 2: Information About Internal Personnel Rules and Practices

FOIA Exemption 2 protects material that relates solely to the FTC's internal personnel rules and practices. "Personnel" concerns such matters as hiring and firing, work rules and discipline, as well as compensation and benefits. The FTC also may invoke Exemption 2 to withhold documents about inconsequential administrative matters that are of no genuine public interest.

Exemptions 3 & 4: Information Prohibited from Disclosure By Other Federal Laws, and Trade Secrets and Other Confidential Business Information

In the course of its work, the FTC obtains a great deal of sensitive or confidential information about businesses. Disclosure of this information often could cause competitive harm to those businesses. Moreover, businesses are more willing to provide information to the FTC if they know that the government will protect their sensitive information. Accordingly, the law recognizes the importance of protecting much of this information from disclosure. FOIA Exemptions 3 and 4, together with other statutory provisions, require the agency to withhold trade secrets and other confidential commercial or financial information. Exemption 3 provides that if a law other than the FOIA prohibits the release of certain information, that information may not be disclosed under the FOIA. The following statutory provisions protect the release of certain information provided to the FTC by businesses or other outside parties:

- Proposals submitted by a contractor in response to the requirements of a solicitation for a competitive proposal are exempt from release under FOIA if those proposals have not become incorporated into an ensuing government contract. 41 U.S.C. § 4702. Winning contract bids are protected by this exemption only to the extent they are not incorporated into an ensuing government contract.
- Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 46(f), requires the agency to protect the confidentiality of trade secrets and other commercial or financial information obtained from a business. FOIA Exemption 4 also explicitly exempts this type of information from disclosure; the two provisions are normally applied together.
- The Hart-Scott-Rodino ("HSR") amendments to the Clayton Act, 15 U.S.C. § 18a, require submission of information to the FTC about certain proposed mergers and acquisitions. All information and documentary material submitted to the FTC under

the HSR amendments are exempt from the FOIA's disclosure requirements and may not be made public "except as may be relevant to any administrative or judicial action or proceeding." 15 U.S.C. § 18a(h).

- The FTC has the authority to require businesses or individuals to submit information needed for investigations. This authority is known as compulsory process. Sections 21(b) and 21(f) of the FTC Act prohibit the release of information obtained through compulsory process, or submitted to the FTC voluntarily by a party when compulsory process might otherwise have been used.
- Material that the FTC receives from a foreign law enforcement agency or other foreign government agency, as well as consumer complaint information received from other foreign sources is exempt from mandatory disclosure when the agency or foreign source providing the material requests confidentiality as a condition of providing the information. Section 21(f)(2)(A)(i)–(ii) of the FTC Act, 15 U.S.C. § 57b-2(f)(2)(A)(i)–(ii). Additionally, any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies is exempt from mandatory disclosure. Section 21(f)(2)(A)(iii) of the FTC Act, 15 U.S.C. § 57b-2(f)(2)(A)(iii).
- Pharmaceutical agreement filings submitted pursuant to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 are exempt from release under FOIA. 21 USC 355.

The FOIA exemptions, the FTC Act, and the various Exemption 3 provisions protect trade secrets, confidential commercial information, and information submitted to the FTC during its law enforcement investigations from disclosure under FOIA.

Example: In response to an FTC investigation of the nutrition claims of a health food snack, a distributor or manufacturer supplies the FTC with information about the snack's ingredients, advertising budget, and sales profits. Both the FOIA and the FTC Act require the FTC to withhold all such information because it is confidential business information and, with respect to the commercial food recipe, a trade secret. Disclosing such information to the public would harm the distributor's competitive position and make it, and others, less likely to cooperate with government investigations for fear of losing competitive advantage.

Exemption 5: Internal Government Documents

FOIA Exemption 5 allows the FTC to withhold some internal government communications, including memoranda or letters transmitted within the FTC or between the FTC and other government agencies. The exemption protects records that would normally not be available to a private party involved in litigation with the FTC. The exemption typically covers the following legal privileges:

- **Deliberative process:** This privilege allows the FTC to withhold information that is *predecisional* (*i.e.*, prepared in advance of an agency decision in a particular matter) and *deliberative* (*i.e.*, prepared to aid in the decision-making process). The FOIA allows the agency to withhold records of this type to facilitate open and candid discussion among government employees as part of agency decision-making. The exemption is also intended to avoid causing confusion among the public resulting from the release of information that does not reflect the agency's fully-considered position. However, the agency must release segregable facts contained in these records.
- **Work product:** The work-product privilege protects material prepared because of actual or anticipated litigation. The privilege protects not only an attorney's mental

impressions, theories, and thought processes, but also the facts that are collected in such documents.

- Attorney-client communications: The attorney-client privilege protects confidential communications between an attorney and a client over a legal matter for which the client has sought legal advice. The privilege is intended to encourage full and frank communication between attorney and client. This privilege protects the entire document.

Example: In a law enforcement investigation that is likely to go to trial, the FTC's Office of the General Counsel may be asked to prepare memoranda analyzing whether the FTC has jurisdiction and outlining the arguments the FTC's attorneys could use to defend its jurisdiction in court. The FTC may use all three of these privileges to withhold such memoranda.

In accordance with the FOIA, the deliberative process privilege generally will not apply to records created 25 years or more prior to the date of the FOIA request. The presumption favoring release does not apply to portions of internal documents that are protected by other exemptions. The General Counsel's delegee (on initial requests) and the General Counsel or delegee (on appeal) shall apply this policy in determining whether to release internal documents.

Exemption 6: Personal Information

Exemption 6 allows agencies to withhold personnel, medical, and similar records to prevent a clearly unwarranted invasion of personal privacy. In addition, Exemption 7(C) (see below) allows agencies to withhold personal information that is part of an investigative file. Before invoking either of these exemptions, the FTC must determine that the individual's right to privacy is greater than the public's interest in the information in question.

Example: Although the Commission's Consumer Sentinel database informs consumers that this agency may disclose their identity, the FTC usually withholds the personally identifying information of individuals from consumer complaints received by the Commission. The individual's right to privacy outweighs the public's interest in knowing the personal information.

Exemption 7 and Subparts: Law Enforcement

FOIA Exemption 7 allows the FTC to withhold law enforcement records where release could harm law enforcement efforts in one or more ways listed in the statute. Because the FTC is a law enforcement agency, the FTC often invokes this exemption. There are six subparts, (A) through (F), of Exemption 7, three of which apply commonly to FTC records. Exemption 7(A) allows the FTC to withhold information in law enforcement investigations if disclosure could reasonably be expected to interfere with enforcement efforts (e.g., by alerting a target of the existence of an investigation, or by revealing investigative strategies). As noted above, Exemption 7(C) allows the FTC to withhold personal information from an investigative file.

Exemption 7(D) allows the FTC to withhold records that could reveal the identity of a confidential source. The FTC's practice is to treat third-parties that provide information during the course of a law enforcement investigation as confidential sources whenever possible.

Example: Exemption 7 would probably apply in a number of ways to an ongoing FTC investigation of a franchisor triggered by allegations from several franchise owners about misrepresentations of potential earnings. The FTC may use Exemption 7(A) to withhold all records that reveal investigative strategies of the FTC or that may show that the franchisor is an investigation target. It may also use Exemption 7(C) to withhold information about the franchisees' personal finances, because the public has little right to know about information that is not related to government operations or business. Finally, it might invoke Exemption 7(D) to protect the complaining franchisees' identities.

VI. Records Excluded from Coverage Under the FOIA

In addition to the FOIA's exemptions, Congress has identified three types of materials that are not subject to disclosure under the FOIA:

1. Criminal investigative records that could reveal the existence of the investigation to the target, leading to interference with the proceeding (5 U.S.C. § 552(c)(1));
2. Records related to a criminal informant that would identify that individual's previously undisclosed identity as an informant (5 U.S.C. § 552(c)(2));
3. Classified FBI records related to foreign intelligence, counter-intelligence, or terrorism (5 U.S.C. § 552(c)(3)).

These FOIA *exclusions* recognize that even acknowledging the existence of certain types of records may cause as much harm as their disclosure, so the law excludes those classes of records from the disclosure requirements. Since the FTC does not prosecute alleged criminal violations, we typically only apply an exclusion when we discover evidence of a criminal violation that may be turned over to other agencies for prosecution (Exclusion (c)(1)).

VII. HOW TO FILE A FREEDOM OF INFORMATION ACT REQUEST

A. What You Need to Include in Your Request

All FOIA requests must be in writing. You may submit your written request via e-mail, fax, U.S. mail, or via our [secure online form](#). To file a request, identify your letter as a "Freedom of Information Act Request" to ensure that it is handled promptly. Additionally, we can respond to your request more quickly if the letter precisely describes the records you seek.

At a minimum, your FOIA request should contain:

- Your name, address, and daytime telephone number or email address, in case we need to contact you to discuss your request.
- A precise description of the records that you seek, *e.g.*, consumer complaints or investigative files about a particular company or product.
- Your willingness to pay the applicable fees, if any, associated with processing your FOIA request. (See Section VII.C. Processing Fees.)
- If you are seeking a fee waiver or reduced fees, sufficient information to show that (1) disclosure of the information you are seeking will likely contribute significantly to public understanding of government activities or operations, and (2) the request is not primarily to serve your commercial interest (*e.g.*, you are seeking information for

research purposes, or the public interest in disclosure outweighs your commercial interest).

- If you are seeking expedited treatment, sufficient information to show that (1) failure to obtain the records quickly could pose an imminent threat to the life or safety of an individual; or (2) your primary job is to disseminate information and there is an urgency to inform the public about actual or alleged Federal government activity.
- If you are seeking records about a company, the exact name and address of the company, if you know it. Because many companies share similar names, you can help us identify the information you want by indicating the type of business that the company is engaged in.
- If you are seeking a copy of a consumer complaint that you submitted, you must include the address that was included with the original complaint.
- The relevant time period. (Do you want us to search only for records that were created during a specific time period? Remember that information in newer records may be more relevant and easily located.)

B. Where to Send Your Request

Regardless of how you send your request (via e-mail, fax, U.S. mail, or other delivery service), address it as follows:

Freedom of Information Act Request
Office of General Counsel
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

The e-mail address is FOIA@FTC.GOV and the fax number for the FOIA branch is (202) 326-2477.

C. Processing Fees

The FOIA allows the FTC to charge fees to process some FOIA requests. (See subsection D for information about the FTC's fee schedule.) Your request must include a statement of your willingness to pay fees, and should include the amount you are willing to pay. If you are willing to pay fees only up to a certain amount, you may say that in your letter. If we estimate that the cost to process your request will exceed \$25, we will not begin to process it until we have a fee agreement in place. If we do not receive a fee agreement within 20 calendar days after providing notice that a fee agreement is needed, we will close your request. We reserve the right in appropriate cases to require that some or all of the fees be paid in advance. If you have unpaid fees from a previous FOIA request, you may be required to pay those fees before we process your new request.

You may ask for a waiver of processing fees if your request meets certain requirements. The FOIA permits us to grant a fee waiver if you show that a waiver is appropriate under the following standards: (1) disclosure of the information you are seeking will likely contribute significantly to public understanding of government activities or operations, **and** (2) the request is not primarily to serve your commercial interest.

Example: A fee waiver would likely be denied if a request seeks only consumer complaints about a company, because consumer complaints about a particular company, standing alone, do not provide information about how the FTC operates. However, fees might be

waived for a request seeking communications between the FTC and Congress or other Federal agencies (if the other required conditions are also met) because such documents could provide information about how the FTC carries out its duties.

Untimely responses. Except as provided below, search fees for responding to a FOIA request will not be assessed for responses that fail to comply with the time limits as provided at 5 U.S.C. 552(a)(4)(A)(viii) and §4.11(a)(1)(ii), if there are no unusual or exceptional circumstances, as those terms are defined by 5 U.S.C. 552(a)(6) and §4.11(a)(1)(ii). Except in unusual or exceptional circumstances (as described below), duplication fees will not be assessed for an untimely response made to a requester qualifying for one of the fee categories set forth in §4.8(b)(2).

If we determine that unusual circumstances apply and provide you a timely written notice in accordance with 5 U.S.C. 552(a)(6)(B), the delay in a response is excused for an additional 10 days. If we fail to comply with the extended time limit, we will not charge search fees (or for a requester qualifying for one of the fee categories set forth in §4.8(b)(2) will not charge duplication fees).

If we determine that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request, we may charge search fees (or, for requesters qualifying for one of the fee categories set forth in §4.8(b)(2), may charge duplication fees) if we have given you timely written notice and have discussed with you via written mail, electronic mail, or telephone (or made not less than 3 good-faith attempts to do so) how you could effectively limit the scope of the request.

If a court determines that exceptional circumstances exist, the Commission's failure to comply with a time limit shall be excused for the length of time provided by the court order.

D. FEE SCHEDULE

Fees for processing FOIA requests depend on the fee category of the requester. Some services are provided without charge, as noted in the table below. Generally, commercial requesters are those who seek information to further the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. An educational institution is a school or institution of higher learning which operates a program or programs of scholarly research. A non-commercial scientific institution is an institution that is not operated on a commercial basis, as that term is referenced in 16 C.F.R. § 4.8(b), and that is operated solely to conduct scientific research, the results of which are not intended to promote any particular product or industry. A representative of the news media is any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. More exact definitions of these terms can be found at [16 C.F.R. § 4.8\(b\)](#).

Requester Fee Categories

Requester Category	Searching	Reviewing	Duplication Charges
Commercial (including law firms)	Fee	Fee	Fee for all Duplication
Educational, Non-commercial Scientific Institution, or News Media	No Fee	No Fee	No Fee for first 100 pages
All other requesters (including members of the general public)	Fee after 2 hours	No Fee	No Fee for first 100 pages
Search and Review Fees (per quarter hour):			
Clerical			\$8.00
Other Professional			\$13.00
Attorney/Economist			\$20.00
No fees to be charged if cost for all services is below this amount			\$25.00
Duplication:			
Paper to paper copy (up to 8.5" × 14")			\$0.14 per page
Converting paper into electronic format (scanning)			Quarter-hour rate of operator (Clerical, Other Professional, Attorney/Economist)

Other reproduction (e.g., computer disk or printout, microfilm, microfiche, or microform)	Actual direct cost, including operator time
Electronic Services:	
Preparing electronic records and media	\$10.00 per qtr. hour
Compact Disc (CD)	\$3.00 per disc
DVD	\$3.00 per disc
Videotape Cassette	\$2.00 per cassette
Microfilm Services:	
Conversion of existing fiche/film to paper	\$0.14 per page
Other Fees:	
Certification	\$25.00 each
Express Mail	U.S. Postal Service Market Rates
Records maintained at Iron Mountain or Washington National Records Center facilities (records retrieval, re-filing, etc.)	Contract Rates
Other Services as they arise	Market Rates

VIII. HOW THE FTC RESPONDS TO FOIA REQUESTS

A. Response Time

We answer most requests within the statutory time limit of 20 working days following the receipt of a request, without need for an extension. Unless it is a simple request or a request that we can process in fewer than three days, we will send you an acknowledgment letter informing you we have received your request. We may also contact you during processing to ask questions or to give you a status report. If we need additional information or clarification about your request, we may put your request on hold temporarily, while we try to reach you. If we have not been able to reach you during the hold period, to resolve these issues, we may close the request. You may check the status of your request on our [Track Your FOIA Request](#) webpage, or by calling the FOIA specialist who is processing your request.

1) Extensions of Time for Responding to FOIA Requests

After a request has been perfected, the FOIA requires us to respond to requests within 20 working days, but it also gives us the right to extend that time under unusual or exceptional circumstances. A formal 10-day extension of the FOIA's time limits may be invoked under unusual circumstances, which are defined by the FOIA statute to include when the responsive documents: (1) are located in offices separate from the FOIA office; (2) are voluminous; or (3) require two or more FTC offices to confer about the documents.

If we need to invoke a formal extension of the response time, we will notify you in writing by the 20th working day after we receive your request. You will be given the opportunity to modify your request, in order to reduce the necessary processing time.

When we cannot process your request within the extended time limit (*i.e.*, 20 working days + 10-day extension), we will notify you and give you an opportunity to limit the scope of the request so that it may be processed within this time limit, or to arrange an alternative time frame for processing the request or a modified request. In exceptional circumstances, when the request cannot be processed within the extended time limit, we will also make the agency's FOIA Public Liaison available to assist in the resolution of any dispute and notify you of the right to seek dispute resolution services from the Office of Government Information Services. "Exceptional" circumstances will not include delays resulting from a predictable workload of requests under this section. Unwillingness to make reasonable modifications in the scope of the request or to agree to an alternative time frame may be considered as factors in determining whether exceptional circumstances exist and whether the agency has exercised due diligence in responding to the request.

2) Expedited Processing of FOIA Requests

We generally process requests in the order in which they are received. However, you may request expedited handling of your request if you believe there is a compelling need for a more rapid response. To qualify for expedited processing, you must show that: (1) failure to obtain the records quickly could pose an imminent threat to the life or safety of a specific individual; or (2) your primary job is to disseminate information and there is an urgency to inform the public about actual or alleged Federal government activity. A FOIA officer will respond to your request for expedited treatment within ten calendar days of receiving it to let you know whether the request has been granted. If expedited treatment is granted, the request will be processed as soon as practicable.

B. Content of Response

We will send you a letter in response to your FOIA request. The responsive documents that qualify for release will be included with this letter.

If we did not locate any responsive records, we will state this in the response letter. If we locate responsive materials, we will review them to determine whether we can grant full or partial access to them, or whether we must withhold them based on the FOIA exemptions. If we deny your request in whole or in part, we will list and explain the applicable FOIA exemptions and provide the name of the official who made the decision. In our response letter we describe the categories of documents being withheld in as much detail as the case permits, and give an estimate of the quantity of documents withheld. We do not provide a complete index enumerating the withheld documents or portions thereof, nor do we provide specific descriptions of them. The response letter concludes with an explanation of the procedure for appealing a decision, information about the FTC's FOIA Public Liaison, notification about services provided by the Office of Government Information Services (OGIS), and the name and telephone number of someone who can answer questions about how we handled your request. If there are any processing fees associated with your request, we will include an invoice of the fees incurred and information on how to make the payment.

We will send the response letter by U.S. Mail unless you specify your preference for another medium of delivery. Responses may be faxed, sent via Federal Express, emailed, or delivered by courier on a case-by-case basis but only if you are willing to pay certain delivery fees and when an explicit agreement is reached between you and FOIA officer. If records are not easily copied or duplicated, they will be made available for inspection for 30 days from the date you are notified unless we approve a request for additional time.

Some documents that we release may contain both exempt and releasable information. When we release documents that contain information subject to a FOIA exemption, we redact the exempt material and label it with the exemption that applies. In this way, we help you to determine the nature and quantity of information that is being withheld.

1) Materials from Other Agencies

When responsive materials include documents that were received previously from another agency, we will contact the submitting agency. The materials will not be released if the submitting agency determines that they are exempt. In appropriate circumstances, we may refer the request to the submitting agency for processing.

2) Copyrighted Materials

When responsive materials include copyrighted documents, such as published advertising substantiation materials, you ordinarily will receive copies of copyrighted materials unless doing so would violate section 6(f) of the FTC Act by adversely affecting the commercial value of the copyright. In that case, the materials would be withheld from release. For example, the FOIA Office will ordinarily release copies of materials otherwise available for sale (such as a Dun and Bradstreet or Lexis-Nexis Report) in the absence of sufficient evidence to demonstrate that potential customers of records sold by companies would utilize the FOIA as a substitute for directly purchasing the records from those companies.

Other factors we consider in determining whether to release particular materials may include the amount of material requested, the age of the material, and whether it is still available from the copyright holder. Works that comprise a small portion of a publication are more appropriately copied than works that comprise a large portion of a publication. Although determinations will be made on a case-by-case basis, requesters will rarely be provided copies of entire books.

3) Retention of Requested Documents

When a FOIA requester has been denied access to documents, the documents will be retained until the expiration of the ninety-day period during which the requester may file an administrative appeal. In appropriate cases, the responsive documents will also be retained in compliance with the FTC's record retention policy.

IX. APPEALS

Within 90 days of the receipt of the final FOIA response, you have the right to an administrative appeal of any full or partial denial of access. In some cases, you may also ask that the FTC exercise its discretion to release information even though it is exempt from mandatory disclosure. Appeals must be in writing and include a copy of the initial request letter as well as the initial response letter. If you believe the FTC should exercise its discretion and disclose additional materials beyond what the FOIA requires, you need to explain why this would be in the public interest. FOIA appeals are decided by the General Counsel (or the General Counsel's designee). To ensure an independent review of the issues presented on appeal, individuals other than those who processed and decided the initial request advise the General Counsel on appeals. The General Counsel has authority to release documents that are exempt from disclosure, but are unlikely to cause harm to the agency's activities, individuals, or businesses, if released.

Appeal letters should be addressed to:
Freedom of Information Act Appeal
Office of the General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

If you are not satisfied with the General Counsel's decision you may obtain review of that decision in a Federal District Court. See 5 U.S.C. § 552(a)(4)(B). Decisions of the District Court may be appealed to the Court of Appeals and further review may be sought in the U.S. Supreme Court.

X. INDEX OF MAJOR FTC INFORMATION AND RECORD LOCATOR SYSTEMS

As required by subsection (g) of the FOIA, the following is a list and brief description of the major information and record locator systems maintained by the FTC:

- MMS (Matter Management System) is an automated system that tracks significant events for Commission investigations, projects, rulemaking proceedings, and adjudications.
- OSCAR (Office of the Secretary Control & Reporting System) provides information about the Commissioners' assignments and actions.
- Doc-Smart (Document Storage Management And Retrieval Tool) is a full-text

retrieval system that provides quick access to Commission documents for research purposes or for use in current work.

- CIS (Consumer Information System) tracks and manages information about consumer complaints. This information includes identification of the company, alleged statute and rule violations, products, and the content of consumer complaints.
- Consumer Sentinel is a joint project of the FTC and the National Association of Attorneys General that assists U.S. law enforcement agencies in collecting and sharing information about companies and company representatives suspected of telemarketing fraud.
- CCTS (Chairman's Correspondence Tracking System) records the correspondence received by the Office of the Chairman and tracks the handling of that correspondence.
- OSTS (Office of the Secretary Correspondence Tracking System) records the Congressional correspondence and monitors the review and response to that correspondence.
- Premerger Notification System tracks Hart-Scott-Rodino filing information for the FTC and DOJ. Information from HSR filings is transferred into this database. The system is used by litigation staff for antitrust analysis, litigation support, and to compile merger statistics.
- FFS (Federal Financial System) helps the FTC manage its budget and expenditures.
- STAR (Staff Time and Activity Reporting System) records the time spent by FTC staff on individual investigations, projects, and other activities of the agency.
- FOIA (Freedom of Information Act) System maintains information about each request, the subject of the request, the disposition of the request, and the exemptions claimed.

XI. PRIVACY ACT

The Privacy Act restricts the collection, maintenance, use, and dissemination of information concerning individuals that is found in "systems of records." 5 U.S.C. 552a. The Act allows agencies to maintain in their systems of records only such information about individuals as is relevant and necessary to accomplish a function required by statute or Executive Order. Commission employees or contractors may collect information directly from an individual when the information may result in adverse determinations about an individual's rights, benefits, or privileges under Federal programs. A Privacy Act Statement disclosure must be provided to each individual from whom information is sought, if that information will be retrieved by using a personal identifier. This requirement applies to subpoenas, section 6(b) orders, access letters, witness interviews, surveys, and other inquiries or forms.

The Privacy Act also gives individuals the right to access information the government maintains about them in these systems of records. As under the FOIA, each Federal agency handles its own requests for records under the Privacy Act. To make a request under the Privacy Act, you should contact the agency that you believe may have records about you. The Privacy Act allows you to (1) request notification if the Commission maintains a record¹

¹ "Record" means any item, collection, or grouping of information about an individual that is maintained by the Commission, (including, but not limited to, education, financial transactions, medical history, and criminal or employment history) that contains a name, or identifying number, symbol, or other identifying particular assigned to the individual, such as a finger- or voiceprint or a photograph. It does not include information about proprietorships, businesses, or corporations.

pertaining to you in any system of records,² (2) request access to such a record or to an accounting of its disclosure, (3) request that the record be amended or corrected, and (4) appeal an initial adverse determination of any request.

When you make a Privacy Act request to the FTC, we search our systems of records for any information indexed by your name, or any other identifying information. The FTC systems of records subject to the Privacy Act are organized into seven categories: (1) law enforcement systems, (2) FTC personnel systems, (3) FTC financial systems, (4) correspondence systems, (5) access request systems, (6) mailing list systems, and (7) miscellaneous systems. More information about the Privacy Act and a complete list of the FTC's Privacy Act systems can be found at the FTC's [website](#). FTC regulations related to the Privacy Act, including procedures for making a Privacy Act request, are found at 16 C.F.R. §4.13.

XII. GOVERNMENT IN THE SUNSHINE ACT

The Government in the Sunshine Act ("Sunshine Act"), 5. U.S.C. § 552b, gives the public the right to observe Commission meetings, except when the topics to be discussed at those meetings concern certain types of issues. When the Commission determines that certain types of information, which should remain confidential, are likely to be discussed at a Commission meeting, the Sunshine Act allows the agency to hold the meeting in a closed session. Whether a Commission meeting will be open or closed depends on the kind of information that will probably be discussed, not on what documents have been submitted. Therefore, access to Commission meetings and records of meetings is controlled by the Sunshine Act, but access to documents presented to the Commission, such as recommendations and memoranda, is controlled by the FOIA. The Commission's vote to have a closed meeting and the General Counsel's determination that allows the meeting to be closed are available on the public record. In addition, the nonexempt portions of the minutes of those meetings are made public after the meeting.

The Sunshine Act requires that the agency maintain a record of business conducted in closed meetings. The record may consist of a transcript, electronic recording, or minutes except that, for meetings closed because of applicable Sunshine Act exemptions, the only acceptable record is a transcript or electronic recording. Portions of the record that are determined not to be exempt under the Sunshine Act will be released to the public. The Sunshine Act does not require the maintenance of any record of business conducted at open meetings. The Sunshine Act, like the FOIA, requires disclosure of certain records of Commission meetings, but it contains exemptions that differ from those under the FOIA in significant respects. For example, the Sunshine Act does not contain an exemption parallel to FOIA Exemption 5, although it does contain exemptions that protect many materials covered by FOIA Exemption 5. When dealing with requests for records of Commission meetings, Sunshine Act exemptions, rather than FOIA exemptions, apply.

The FTC regulations related to the Government in the Sunshine Act are found at 16 C.F.R. § 4.15.

² To qualify under the Privacy Act, such a system must be one that uses an indexing or retrieval system in which "records" are retrieved by an individual identifier. A collection of records is not a "system of records" if it contains an identifier that is not actually used to retrieve records (e.g., a computer system that contains names but is not programmed to retrieve records using those names).

Common Misconceptions

1. The most commonly requested records that we do not have include:

-Credit Reports. We do not have a copy of your credit report, nor can we supply you with a copy of your credit report. You can go to <https://www.annualcreditreport.com> to obtain a free copy of your credit report(s). More information about obtaining your [free annual credit](#) report is available on the FTC's website.

- Uniform Franchise Offering Circulars. Franchisors are not required to file these documents with the FTC and we do not generally have copies. However, many state laws require these documents to be filed with a division of that state's government. Some states, such as California and Minnesota, make these documents available on their state government websites.

-Non-FTC Records. Please make sure that you are submitting your FOIA request to the correct Federal Agency or Office. We do not have access to other agencies' records, and you must request those records directly from the appropriate Federal Agency or Office. For example, if you are looking for personal information that you believe the Department of Labor may have, you must submit your FOIA request to that agency's FOIA Office.

You should also make sure that the records you seek are maintained by the Federal government, as opposed to a state government. Many personal records, such as your driving record or educational records, are maintained by state agencies or universities. State Attorneys General and other agencies also have the authority to investigate and prosecute much of the conduct over which the FTC has authority. Just because the FTC (or another Federal agency) does not have the records you seek does not mean that a state agency would not have them. Every state has a law similar to the FOIA that allows access to state records.

-Criminal Records. The FTC is not a criminal law enforcement agency and does not typically investigate or prosecute violations of criminal laws. When our investigations reveal possible criminal conduct, we refer that conduct to the appropriate agency, such as the Federal Bureau of Investigations of the Department of Justice. It is important to understand that many criminal investigations and prosecutions are conducted by state and local agencies. If you are seeking information about a criminal investigation or prosecution, you should submit your request directly to the agency that conducted the investigation or prosecution.

-Background Investigations and Other Information About Individuals. The FTC only maintains information about individuals that pertains to our consumer protection or competition missions, or the administrative functions of the agency. That means we only have information about an individual under very limited circumstances, such as when he or she was the subject of an FTC investigation. We collect, use, store, and dispose of personal information consistent with our obligations under the Privacy Act, which means we only maintain personal information that we actively use, and dispose of information when it is no longer needed. More information about the information we collect and maintain can be found in the FTC's [System of Records Notices](#) at the website.

Background investigations for employment by the Federal government are normally conducted by the Office of Personnel Management (which conducts investigations for the FTC), or by the law enforcement, defense, or intelligence agency doing the hiring. Requests for results of background investigations related to Federal employment should be directed to those agencies. State government agencies and private organizations conduct their own background investigations and have their own rules for disclosing the results of those investigations. Any request for the results of a background investigation by a state agency or private organization should be directed to that employer.

2. The FOIA Office does not know the status of any complaint that you made to the Consumer Response Center.

Filing a complaint with the FTC does not mean that the agency will take steps to resolve your individual complaint. Although the Commission has authority under Section 19 of the FTC Act to seek consumer redress, it will not, ordinarily, intervene in isolated or individual consumer disputes. The Commission's law enforcement efforts focus on eliminating practices that are egregious or affect many members of the public. The FOIA office can only provide a copy of the complaint that you filed, or of complaints filed against specific businesses. If you are requesting a copy of a complaint you made to the FTC, in your FOIA request include your reference number and the address under which the complaint was filed. For any other information about how your complaint was handled, you should contact the CRC directly at (877) 382-4357.

3. The FTC cannot offer an opinion about whether a certain company or product is a scam.

When the FTC investigates a company and decides to take legal action, we keep a record of the proceedings on our website. Searching our website for a company's name will reveal whether we have taken action against the company, and if so, the alleged law violations and outcome of the case. Our website also provides frequent [Scam Alerts](#), which inform consumers about the different kinds of scams of which we are aware.

Likewise, companies are not required to register with the FTC, except in an extremely narrow set of circumstance involving textile companies. Nor are companies "endorsed" by the FTC. Many FOIA requests that we receive involve questions about whether a certain company is "FTC approved" or "FTC registered". Such information does not exist. Our office can provide you with copies of complaints made against a certain company, so that you can make your own decision about whether to do business with that company. It should be reiterated that the consumer complaints received by the FTC have not been verified, so the information in the complaint only reflects the experience of the person who made the complaint.

4. Finally, it is important to remember that the FTC is not required to create documents in order to answer a FOIA request, nor is the FTC required to analyze information or documents in order to answer requester questions.