



United States of America
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Russell Carollo

SEP 10 2014

Re: FOIA-2014-01349
Herbalife

Dear Mr. Carollo:

This is in response to your request dated August 27, 2014, under the Freedom of Information Act seeking access to the request letters, subsequent correspondence and responsive documents for 53 FOIA requests. In accordance with the FOIA and agency policy, we have searched our records as of August 27, 2014, the date we received your request in our FOIA office.

We have located approximately 16,900 pages of responsive records, eight Excel spreadsheets, and six media files. I am granting partial access to the accessible records. Portions of these pages fall within the exemptions to the FOIA's disclosure requirements, as explained below.

We are withholding some consumer complaints under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), because they are exempt from disclosure by another statute; specifically, Section 21(f) of the FTC Act provides that the FTC may not disclose any material reflecting a consumer complaint obtained from a foreign source if that foreign source has requested confidential treatment. 15 U.S.C. § 57b-2(f).

Some responsive records are exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), because they are exempt from disclosure by another statute. Specifically, Section 21(f) of the FTC Act provides that information obtained by the Commission in a law enforcement investigation, whether through compulsory process, or voluntarily in lieu of such process, is exempt from disclosure under the FOIA. 15 U.S.C. § 57b-2(f), *see Kathleen McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63964 (D.D.C. April 13, 1981).

Some responsive records contain staff analyses, opinions, and recommendations. Those portions are deliberative and pre-decisional and are an integral part of the agency's decision making process. They are exempt from the FOIA's disclosure requirements by FOIA Exemption 5.5 U.S.C. § 552(b)(5). *See NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975).

Some responsive records contain complaints that consumers have sent to the Federal Trade Commission (FTC). You should know that the enclosed complaints have not necessarily been verified by the FTC. Therefore, you should make your own judgment about relying on the information provided. I am denying access to consumers' names and addresses and any other identifying information found in the complaints. This information is exempt from release under

FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. *See The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003). This exemption also applies to the addresses and contact information of private individuals who filed FOIA requests with the FTC.

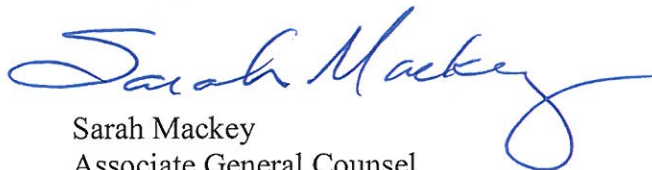
Some of the records contain personal identifying information compiled for law enforcement purposes. This information is exempt for release under FOIA Exemption 7(C), 5 U.S.C. § 552(b)(7)(C), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information.

Any additional records we may have located would be exempt from disclosure under FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A), because disclosure of that material could reasonably be expected to interfere with the conduct of the Commission's law enforcement activities. *See Robbins Tire & Rubber Co. v. NLRB*, 437 U.S. 214 (1978).

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington D.C. 20580, within 30 days of the date of this letter. Please enclose a copy of your original request and a copy of this response. If you believe that we should choose to disclose additional materials beyond what the FOIA requires, please explain why this would be in the public interest.

If you have any questions about the way we handled your request or about the FOIA regulations or procedures, please contact Andrea Kelly at (202) 326-2836.

Sincerely,



Sarah Mackey
Associate General Counsel