

***FREEDOM OF INFORMATION ACT ANNUAL REPORT***

**FOIA Data Submission Form for Federal Trade Commission  
Fiscal Year 2004  
(Oct. 1, 2003 - Sept. 30, 2004)**

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**I. Basic Information Regarding Report**

**A. Name, title, address, and telephone number of person to be contacted with questions about the report.**

Arianne Perkins  
Paralegal Specialist  
600 Pennsylvania Avenue, N.W., Room 676  
Washington, D.C. 20580  
(202) 326-2405

**B. Electronic address for report on the World Wide Web.**

<http://www.ftc.gov/foia/2004r-fo.htm>

**C. How to obtain a copy of the report in paper form.**

Federal Trade Commission  
Consumer Response Center  
Room 130  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

**II. How to Make a FOIA Request**

All FOIA requests must be in the form of a written request precisely describing the records sought. Any request for nonpublic records will be handled as a FOIA request regardless of how it is identified, but requests should be identified as a "FOIA request" in order to avoid delays in processing.

FOIA requests should contain a precise description of the records sought, including the subject matter, relevant time period, and the name and address of any company to which the request pertains. Requests should also include an agreement to pay any FOIA processing fees, and the requestor's address and telephone number.

**A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.**

Regardless of how submitted (via mail, fax, or e-mail) requests should be addressed

as follows:

Freedom of Information Act Request  
FOIA Branch  
Office of the General Counsel  
Federal Trade Commission

final action on the request or the appeal in all respects.

5. *Multi-track processing* – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. *Expedited processing* – an agency

15. *Median number* – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. *Average number* – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

#### **IV. Exemption 3 Statutes**

##### **A. List of Exemption 3 statutes relied on by agency during current fiscal year.**

Federal Trade Commission Act, § 6(f), as amended, 15 U.S.C. § 46(f) -- prohibits the disclosure of "any trade secrets or any commercial or financial information which is obtained from any person and which is privileged or confidential." Its use was upheld in *Doherty v. FTC*, 1981-1 Trade Cas. (CCH) § 64,117 (D.D.C. June 24, 1981).

Federal Trade Commission Act, § 21(b), 15 U.S.C. § 57b-2(b) -- prohibits the disclosure of any materials received pursuant to compulsory process in a law enforcement investigation. Its use was upheld in *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980).

Federal Trade Commission Act, § 21(f), 15 U.S.C. § 57b-2(f) -- exempts from disclosure material obtained pursuant to process or voluntarily in lieu of process in a law enforcement investigation. Its use was upheld in *A. Michael's Piano v. FTC*, 18 F.3d 138 (2d Cir. 1994).

Clayton Act (Hart-Scott-Rodino Provisions), § 7A(h), 15 U.S.C. § 18a(h) -- prohibits the disclosure of material filed pursuant to the premerger (HSR) provisions of the Act. Its use was upheld in *Lieberman v. FTC*, 771 F.2d 32 (2d Cir. 1985).

#### **V. Initial FOIA/PA Access Requests**

##### **A. Number of initial requests.**

1. Number of requests pending as of end of preceding fiscal year: **42**
2. Number of requests received during current fiscal year: **823**
3. Number of requests processed during current fiscal year: **784**
4. Number of requests pending as of end of current fiscal year: **81**

##### **B. Disposition of initial requests.**

1. Total grants: **258**
2. Partial grants: **297**
3. Denials: **11**

a. Number of times each FOIA exemption used  
(counting each exemption once per request)

<b>Exemption 1</b>	0
<b>Exemption 2</b>	5
<b>Exemption 3</b>	90
<b>Exemption 4</b>	32
<b>Exemption 5</b>	45
<b>Exemption 6</b>	257
<b>Exemption 7(A)</b>	23
<b>Exemption 7(B)</b>	0
<b>Exemption 7(C)</b>	4
<b>Exemption 7(D)</b>	5
<b>Exemption 7(E)</b>	0
<b>Exemption 7(F)</b>	0
<b>Exemption 8</b>	0
<b>Exemption 9</b>	0

4. Other reasons for non-disclosure (total): **218**

a. no records	139
b. referrals	1
c. withdrawn	48
d. fee-related	5
e. records not reasonably described	3
f. not a proper request for some other reason	5
g. not an agency record	5
h. duplicate request	9

i. other (specify)

3

(1) materials on the public record

## **VI. Appeals of Initial Denials of FOIA/PA Requests**

### **A. Number of appeals.**

1. Number of appeals received during fiscal year: **21**
2. Number of appeals processed during fiscal year: **21**

### **B. Disposition of appeals.**

1. Number completely upheld: **16**
2. Number partially reversed: **1**
3. Number completely reversed: **0**
  - a. Number of times each FOIA exemption used

(counting each exemption once per appeal)

<b>Exemption 1</b>	0
<b>Exemption 2</b>	0
<b>Exemption 3</b>	5
<b>Exemption 4</b>	1
<b>Exemption 5</b>	0
<b>Exemption 6</b>	6
<b>Exemption 7(A)</b>	3
<b>Exemption 7(B)</b>	0
<b>Exemption 7(C)</b>	5
<b>Exemption 7(D)</b>	0
<b>Exemption 7(E)</b>	0
<b>Exemption 7(F)</b>	0
<b>Exemption 8</b>	0
<b>Exemption 9</b>	0

4. Other reasons for non-disclosure (total):	<b>4</b>
a. no records	0
b. referrals	0
c. withdrawn	2
d. fee-related	0
e. records not reasonably described	0
f. not a proper request for some other reason	2
g. not an agency record	0
h. duplicate request	0
i. other (specify)	0

## **VII. Compliance with Time Limits/Status of Pending Requests**

### **A. Median time for processing requests.**

The median processing time for requests during the reporting period was 12 days.

#### 1. Simple request

- a. Number of requests processed: **608**
- b. Median number of days to process: **11**

#### 2. Complex requests

- a. number of requests processed: **175**
- b. median number of days to process: **41**

#### 3. Requests accorded expedited processing

- a. Number of requests processed: **1**
- b. Median number of days to process: **49**

**B. Status of pending requests.**

1. Number of requests pending at end of FY 04: **81**
2. Median number of days that such requests were pending as of that date: **26**

**VIII. Expedited Processing**

The agency received one request that satisfied the requirements for expedited processing. And it was granted.

**IX. Costs/FOIA Staffing**

**A. Staffing levels.**

1. Number of full-time FOIA personnel: **8**
2. Number of personnel with part-time or occasional FOIA duties (in work-years): **0**
3. Total number of personnel (in work years): **8**

**B. Total costs (staff and resources combined).**

1. FOIA processing (including appeals): **\$428,033**
2. Litigation-related activities (estimated): **\$40.84**
3. Total Costs: **\$428,073.84**

**X. Fees**

- |                                       |          |
|---------------------------------------|----------|
| <b>A. Total fees collected FY 04:</b> | \$17,827 |
| <b>B. Percentage of total costs:</b>  | 4 %      |

**XI. FOIA Regulations (Including Fee Schedule)**

A copy of the Commission rules (including fee schedule), 16 C.F.R. §§ 4.8-13 (2001), are available in electronic form at <http://www.ftc.gov/ftc/legal.htm>.

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**Endnote**

1. These definitions are taken from the Department of Justice Guidelines for Agency Preparation and Submission of Annual FOIA Reports, printed in the FOIA Update, Summer 1997.