

Federal Trade Commission
FREEDOM OF INFORMATION ACT ANNUAL REPORT
Fiscal Year 2008
(Oct. 1, 2007 - Sept. 30, 2008)



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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.

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600 Pennsylvania Avenue, N.W., Room 585
Washington, D.C. 20580
(202) 326-2027
cfalcone@ftc.gov

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

<http://www.ftc.gov/foia/2008r-fo.pdf>

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 delay 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 requester's address and telephone number.

1. 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
Office of the General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Facsimile number is 202-326-2477.

E-mail address is: FOIA@FTC.GOV

2. Description of why some requests are not granted.

The majority of requests that are initially denied, or partially denied, are based on personal privacy concerns reflected in FOIA Exemption 6. Many denials are also due to statutory constraints on disclosure or because disclosure would interfere with ongoing law enforcement activities.

III. Acronyms, Definitions, and Exemptions

1. Agency-specific acronyms or terms.

1. FOIA – Freedom of Information Act (5 U.S.C. § 552)
2. FTC – Federal Trade Commission
3. HSR – Hart Scott Rodino (Clayton Act)
4. FY – Fiscal Year
5. PA – Privacy Act (5 U.S.C. § 552a)

2. Basic terms, expressed in common terminology.

- a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
- b. **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.
- c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.

- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

k.

c.

IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation	Total Number of Times Relied upon by Agency
FTC Act Section 6f, 15 U.S.C. §46(f)	“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 <i>Doherty v. FTC</i> , 1981-1 Trade Cas. (CCH) § 64,117 (D.D.C. June 24, 1981).	23

V. FOIA Requests

A. Received, Processed and Pending FOIA Requests

	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
Agency Overall	2	1184	1178	8

B. (1) Disposition of FOIA Requests – All Processed Requests

Number of Full Grants	Number of Partial Grants/Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									
			No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other	Total
612	341	13	152	1	40	3	4	4	2	2	4	1178

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions”

Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	Total
Public Record (4)	4

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other
1	0	1	0	0	0	0	0	0	0	1

C. (3) Reasons for Denial on Appeal – “Other” Reasons

Description of “Other” Reasons for Denial on Appeal from Chart C(2) & Number of Times Those Reasons Were Relied upon	Total
Submitted out-of-time (1)	1

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
14	13.8	9	20

C. (5) Ten Oldest Pending Administrative Appeals

	10 th Oldest Appeal	9 th	8 th	7 th	6 th	5 th	4 th	3 rd	2 nd	Oldest Appeal
Date of Receipt of Ten Oldest Appeals	0	0	0	0	0	0	0	0	9/26/08	9/15/08
Number of Days Pending	0	0	0	0	0	0	0	0	3 days	12 days

C. Processed Requests – Response Time in Day Increments

Simple Requests

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
Agency Overall	916	54	7	4	2	1	1	0	0	0	1	0	0	986

Complex Requests

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
Agency Overall	93	48	19	13	8	4	6	1	0	0	0	0	0	192

Requests Granted Expedited Processing

	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	Total
Agency Overall	0	0	0	0	0	0	0	0	0	0	0	0	0	0

D. Pending Requests – All

Pending Perfected Requests

Number Pending	Simple Median Number of Days	Average Number of Days	Complex	Expedited Processing
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C. Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency

The Federal Trade Commission did not receive any consultations from other agencies during FY2008.

D. Comparison of Numbers of Requests from Previous and Current Annual Report