

**FEDERAL TRADE COMMISSION
FREEDOM OF INFORMATION ACT ANNUAL REPORT**

Fiscal Year 2017

(Oct. 1, 2016 – Sep. 30, 2017)



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I. Basic Information Regarding Report

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

Shelley M. O'Hara
General Attorney
FOIA Office, Room 585
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Telephone: (202) 326 2072
E-mail address: sohara@ftc.gov

2. Electronic link for access to the Report on the FTC's website:

<http://www.ftc.gov/foia/annualreports.shtm>

3. How to obtain a copy of the report in paper form:

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

II. Making 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: (202) 326 2477
E mail address: FOIA@FTC.GOV

2. Brief description of why some requests are not granted and an overview of certain general categories of records to which the FOIA exemptions apply.

The FTC primarily receives requests for consumer complaints regarding a company's business practices and requests for records relating to the FTC's law enforcement investigations. 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:

FOIA – Freedom of Information Act (5 U.S.C. § 552)
FTC – Federal Trade Commission
HSR – Hart Scott Rodino (Clayton Act)
FY – Fiscal Year
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. Back

- j. Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. 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 granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.

 - i. Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. Simple Request** – a FOIA request that an agency using multi track processing places in its fastest (non expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. Complex Request** – a FOIA request that an agency using multi track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
- p. Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
- q. Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Descriptions of the nine FOIA exemptions:

a. Exemption 1: classified national defense a

3. Agency Component Abbreviations

Component Abbreviation	Component Name

IV. EXEMPTION 3 STATUTES

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
15 U.S.C. § 46(f)	"[Any] trade secret or any commercial or financial information which is obtained from any person and which is privileged and confidential"	Doherty v. FTC, No. 80-0513, 1981 WL 2094, at *3 (D.D.C. June 24, 1981)(15 U.S.C. § 46(f)).	FTC	179	179
15 U.S.C. § 57b-21(f)	Certain investigative materials received by the FTC and "provided pursuant to compulsory process under this subchapter or which is provided voluntarily in place of such compulsory process" or "consumer complaint information obtained from a foreign source"	A. Michael's Piano, Inc. v. FTC, 18 F.3d 138, 143-44 (2d Cir. 1994) (15 U.S.C. § 57b-2); Ayuda, Inc. v. FTC, 70 F.Supp.3d 247 (D.D.C. 2014) (15 U.S.C. § 57b-2); Carter, Fullerton & Hayes, LLC v. FTC, 637 F. Supp. 2d 1, 9 (D.D.C. 2009) (15 U.S.C. § 57b-2);	FTC	71	71
15 U.S.C. § 18a(h)	Information submitted in connection with the premerger notification provisions of the Hart Scott-Rodino Antitrust Improvements Act of 1976.	Lieberman v. FTC, 771 F.2d 32 (2nd Cir. 1985).	FTC	42	42

V.A. FOIA REQUESTS -- RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Agency / Component	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
FTC	30	1,518	1,492	56
				0
AGENCY OVERALL	30	1,518	1,492	56

After reviewing its database, FTC updated the number of requests pending as of the start of the Fiscal Year to 30, rather than 28.

V.B.(1). DISPOSITION OF FOIA REQUESTS

PROCESSED REQUESTS

					Number of Full Denials Based on Reasons Other than Exemptions					
Agency / Component	Number of Full Grants	Number of Partial Grants / Partial Denials	Number of Full Denials Based on 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	

**V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS
 BASED ON REASONS OTHER THAN EXEMPTIONS"**

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
FTC	Directed Requester to Publicly Available Information	23	24
	Court Seal	1	
AGENCY OVERALL			24

V.B.(3). DISPOSITION OF FOIA REQUESTS -- NUMBER OF TIMES EXEMPTIONS APPLIED

Agency / Component	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
FTC	0	5	228	82	104	537	64	0	29	11	19	0	0	0
AGENCY OVERALL	0	5	228	82	104	537	64	0	29	11	19	0	0	0

VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS

Agency / Component	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
FTC	1	28	25	4
				0
AGENCY OVERALL	1	28	25	4

After reviewing its database, FTC updated the number of appeals pending as of the start of the Fiscal Year to 1, rather than 0.

VI.B. DISPOSITION OF ADMINISTRATIVE APPEALS -- ALL PROCESSED APPEALS

Agency / Component	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
FTC	17	2	5	1	25
					0
AGENCY OVERALL	17	2	5	1	25

VI.C.(2). REASONS FOR DENIAL ON APPEAL -- REASONS OTHER THAN EXEMPTIONS

Agency / Component	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 *Explain in chart below
FTC	4	0	1	7	0	1	0	0	0	0	0
AGENCY OVERALL	4	0	1	7	0	1	0	0	0	0	0

VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS

Agency / Component	Description of "Other" Reasons for Denial on Appeal from Chart C(2)	Number of Times "Other" Reason Was Relied Upon	TOTAL
FTC	N/A	0	0
AGENCY OVERALL			0

VI.C.(4). RESPONSE TIME FOR ADMINISTRATIVE APPEALS

Agency / Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
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VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Agency / Component	Median	SIMPLE	COMPLEX	EXPEDITED PROCESSING
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VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<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
FTC	310	96	41	25	18	11	5	4	3	4	7	1	1	526
														0
AGENCY OVERALL	310	96	41	25	18	11	5	4	3	4	7	1	1	526

VII.C. PROCESSED REQUESTS GRANTED EXPEDITED PROCESSING -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<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
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VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

		SIMPLE		COMPLEX	EXPEDITED PROCESSING
Agency / Component	Number Pending	Median Number of Days	Average Number of		

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

Agency /
Component

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
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VIII.B. REQUESTS FOR FEE WAIVER

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
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IX. FOIA PERSONNEL AND COSTS

X. FEES COLLECTED FOR PROCESSING REQUESTS

XI.A. NUMBER OF TIMES SUBSECTION USED

Agency / Component	Number of Times Subsection Used
FTC	0
AGENCY OVERALL	0

XI.B. NUMBER OF SUBSECTION POSTINGS

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
FTC	23,159	107
AGENCY OVERALL	23,159	107

XII.A. BACKLOGS OF FOIA REQUESTS AND ADMINISTRATIVE APPEALS

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
FTC	8	0
AGENCY OVERALL	8	0

XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
FTC	0	3	3	0
				0
AGENCY OVERALL	0	3	3	0

**XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT --
REQUESTS RECEIVED AND PROCESSED**

XII.D.(2). COMPARISON OF NUMBERS OF

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
FTC	26	28	27	25
AGENCY OVERALL	26	28	27	25

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Agency / Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
FTC	0	0
AGENCY OVERALL	0	0