

Freedom Through Justice Foundation

2111 Wilson Blvd #700

Arlington, VA 22201

703.875.8625

September 26, 2011

VIA FACSIMILE

Sarah Mathias
Attention: Nathaniel Gray
Office of General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
F: 202-326-2477

Re: Freedom of Information Act Request FOIA-2011-01431

Dear Ms. Mathias:

This letter is a response to your September 22, 2011, letter denying our fee waiver application. The Freedom Through Justice Foundation is a 501(c)(3) nonprofit, nonpartisan representative of the news media and public interest firm that uses public policy and legal reform strategies to ensure greater transparency in government, protect taxpayer interests and promote social and economic freedoms.

It has come to our attention the Federal Trade Commission ("FTC") has begun to initiate investigations and enforcement actions against businesses or individual bloggers who may have violated the FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising. Because disclosure requirements put restrictions on the commercial speech of bloggers and other marketers, the FTC's actions in this area justify close scrutiny. We plan to publicize the results of our inquiry into the Guides Concerning the Use of Endorsements and Testimonials in Advertising by using editorial skills to create a new, distinct work.

Freedom Through Justice Qualifies Under the Non-Commercial Fee Category

The Freedom Through Justice Foundation requests a waiver of both search and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) and 5 U.S.C. § 552(a)(4)(A)(iii). The Freedom Through Justice Foundation is a 501(c)(3), not-for-profit, representative of the news media and has no commercial purpose in requesting information. Freedom Through Justice has no commercial, trade or profit interests and is organized and operated to publish or broadcast news to the general public. Freedom Through Justice will use its editorial skills to turn raw materials into a distinct work.

Freedom Through Justice Is Entitled to a Complete Waiver of Fees

Freedom Through Justice requests a waiver of fees as a representative of the news media under 5 U.S.C. § 552(a)(4)(A)(ii)(II). The disclosure of the requested information is likely to

Ms. Sarah Mathias
September 26, 2011
Page 2

contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). *See, e.g., Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814 n.3 (2d Cir. 1994); *Prison Legal News v. Lappin*, 436 F. Supp. 2d 17, 27 n.5 (D.D.C. 2006).

The subject matter of the requested records specifically concerns identifiable “operations or activities of the government.” The disclosable portions of the requested information will be meaningfully informative in relation to this request. This disclosure will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons. Freedom Through Justice has a dynamic and diverse staff whose range of expertise includes a combined 15 years of government oversight, investigative reporting, and federal public interest litigation experience.

In an effort to facilitate record production within the statutory time limit, the Freedom Through Justice Foundation prefers to accept documents in electronic format (e.g. e-mail, .pdfs). When necessary, the Freedom Through Justice Foundation will accept the “rolling production” of documents.

If you do not understand this request or any portion thereof, or if you feel you require further clarification of this request or any portion thereof, please contact us immediately via Amber Taylor (Amber.Taylor@ftjfoundation.org) or Tyler Martinez (Tyler.Martinez@ftjfoundation.org) or at 703-875-8625. We look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Martinez', with a long horizontal flourish extending to the right.

Tyler Martinez
Associate Attorney
Freedom Through Justice Foundation