

Freedom Through Justice Foundation

2111 Wilson Blvd #700
Arlington, VA 22201
703.875.8625

August 30, 2011

VIA CERTIFIED MAIL

Freedom of Information Act Request
Office of General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Freedom of Information Act Request

Dear Ms. Engle,

We write on behalf of the Freedom Through Justice Foundation, a 501(c)(3) nonprofit corporation 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.

Pursuant to the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the Freedom Through Justice Foundation hereby requests that your department produce the following within twenty (20) business days:

1. All records relating to the drafting, formulation, and revision of the Guides Concerning the Use of Endorsements and Testimonials in Advertising.¹

¹ For purpose of this request, the term “record” shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, telegrams, teletypes, facsimiles, papers, forms, records, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail, meaning any electronically transmitted text or graphic communication created upon and transmitted or received by any computer or other electronic device, and all materials stored on compact disk, computer disk, diskette, hard drive, server, or tape; (3) any audio, aural, visual, or video records, recordings, or representations of any kind, including without limitation all cassette tapes, compact disks, digital video disks, microfiche, microfilm, motion pictures, pictures, photographs, or videotapes; (4) any graphic materials and data compilations from which information can be obtained; (5) any materials using other means of preserving thought or expression; and (6) any tangible things from which data or information can be obtained, processed, recorded, or transcribed. The term “record” also shall mean any drafts, alterations, amendments, changes, or modifications of or to any of the foregoing.

2. All records concerning the results of investigations into conduct by bloggers or social media authors that allegedly violated the Guides Concerning the Use of Endorsements and Testimonials in Advertising
3. All records concerning the results of investigations into conduct by companies that related to alleged violations of the Guides Concerning the Use of Endorsements and Testimonials in Advertising by bloggers or social media authors
4. Copies of any other requests for information made by outside groups though FOIA during the last two years regarding revisions to Guides Concerning the Use of Endorsements and Testimonials in Advertising.

We call your attention to President Obama's January 21, 2009 Memorandum concerning the Freedom of Information Act, in which he states:

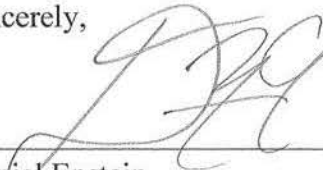
All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA. . . . The presumption of disclosure should be applied to all decisions involving FOIA.²

The Freedom Through Justice Foundation is a 501(c)(3), not-for-profit, educational organization, and, by definition, has no commercial purpose. As such, Freedom Through Justice Foundation is entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

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

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact Amber Taylor 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,



Daniel Epstein

² PRESIDENT BARACK OBAMA, *Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act*, (Jan. 21, 2009), available at <http://www.whitehouse.gov/the-press-office/freedom-information-act> (last visited August 30, 2011).

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Executive Director