

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

James Chelmowski

Plaintiff

v.

**Federal Communication Commission
("FCC"),**

Defendant.

Case No. _____

***COMPLAINT FOR DECLARATORY
AND
EMERGENCY INJUNCTIVE RELIEF***

EXHIBITS

EXHIBIT 1

FOIA & Privacy Act Request # FCC-2021-00026

Date of both the FOIA and Privacy Act Request: October 15, 2020

FOIA Requester: James Chelmowski

FOIA & Privacy Act Request for the following:

This Request is under both FOIA 5 USC 552 and PRIVACY ACT 5 USC 552a for records related to James Chelmowski the Requester. Provide ANY and ALL documentation and communications regarding FCC FOIA and Privacy Act requests searches filed by this FOIA and Privacy Act requester. The FOIA and Privacy Act responses must include all communications and federal records regarding all details of the FOIA and Privacy Act searches. Including but not limited to FCC federal records that show the assignment of searches, the federal records of who performed the searches, all actual search details including but not limited to search terms, search location, records found, number of records found, etc.

The FCC Privacy Act Manager Leslie Smith stated under the penalty perjury in active District Court case 17-cv-1394. FCC Privacy Act Manager Leslie Smith that he had personal knowledge of the Privacy Act Searches in Privacy Act request with control numbers FCC-2017-000511, FCC-2018-000410 and FCC-2018-000425. He stated under the penalty of perjury executed on September 22, 2020 and filed with the District Court on October 9, 2020. The following FCC databases were searched for each of these 3 searches.

The search included the following systems of records:

- FCC/CGB-1: Informal Complaints, Inquiries, and Requests for Dispute Assistance
- FCC/EB-5: Enforcement Bureau Activity Tracking System (EBA TS)
- FCC/OGC-3: Adjudication of Internal Complaints against Employees
- FCC/OGC-5: Pending Civil Cases
- FCC/OGC-6: Private or Civil Injury Claimants
- FCC/OIG-3: Investigative Files
- FCC/OMD-16: Personnel Security Files
- FCC/OMD-17: Freedom of Information Act (FOIA) and Privacy Act Requests
- FCC/OMD-18: Telephone Call Details
- FCC/OMD-20: Inter-office and Remote Access Internet E-mail Systems

FCC Attorney Andrea Kearney stated under the penalty perjury in active District Court case 17-cv-1394. The facts that FCC conducted a Search for the FOIA requests FCC-2018-000311 and FCC-2018-000337. She stated under the penalty of perjury executed on September 22, 2020 and filed with the District Court on October 9, 2020.

FCC Attorney Joanne Wall stated under the penalty perjury in active District Court case 16-cv-5587. The facts that FCC conducted a Search for the FOIA requests FCC-2015-000768, FCC-2015-000769 and FCC-2016-000345. She stated under the penalty of perjury executed on December 13, 2016 and filed with the District Court on December 13, 2020.

Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.

EXHIBIT 2

jchelmowski@comcast.net

From: Brendan McTaggart <Brendan.McTaggart@fcc.gov>
Sent: Friday, October 23, 2020 10:44 AM
To: jchelmowski@comcast.net
Cc: Stephanie Kost
Subject: Fee Estimate for FOIA 2021-000026

Mr. Chelmowski,

We have received your October 15, 2020 request, assigned FOIA 2021-000026, filed under both the Privacy Act and the Freedom of Information Act (FOIA), seeking "records relating to James Chelmowski," and more specifically "all communications and federal records regarding all details of the FOIA and Privacy Act searches [filed by you], including but not limited to FCC federal records that show the assignment of searches, the federal records of who performed the searches, all actual search details including but not limited to search terms, search location, records found, number of records found, etc."

With this email, we address considerations to the FOIA component of your request. Representatives from the Commission's Privacy Office will follow-up under separate cover to address separate considerations related to the Privacy Act.

With respect to the FOIA, we are aggregating FOIA 2021-000026 with a number of your previous FOIA requests also seeking records about yourself. See FOIA 2019-000443 (seeking "all FCC internal and external emails with all attachments regarding me the FOIA/Privacy Act Requester James Chelmowski from January 1, 2014 to the later of the FOIA/Privacy Act request date May 20, 2019 or the date of this FOIA and Privacy Act request search including all the FCC identifications of this FOIA and Privacy Act requester's name including but not limited to 'Chelmowski,' and all aliases identifiers provided by the FCC like the newly discovered name identifier the FCC Chairman, Commissioners, FCC attorneys and/or other FCC employees have been using to identify me like 'Mr. C'"); FOIA 2019-000171 (seeking "Joanne Wall's emails from September 1, 2015 to January 7, 2019 that contained this FOIA and Privacy Act requester's name (James Chelmowski) of the individual 'Chelmowski' or by some identifying number, symbol, or other identifying terms particular assigned to me by the FCC or Joanne Wall").

As you know, FOIA 2019-000443 and FOIA 2019-000171 were aggregated for fee purposes and closed when you declined to authorize additional fees necessary to complete the searches and process the responsive documents. Inasmuch as FOIA 2021-000026 substantially covers and expands upon the very same documents that are responsive to these previous requests, we believe that aggregation is appropriate. We decline to treat FOIA 2021-000026 as a new request and undertake an additional two hours of free search time for these documents, merely because it was filed later in time.

Accordingly, please let us know by reply email within two weeks from the date of this message (by November 6, 2020) if you wish to authorize additional fees to resume the search for responsive documents previously begun and if you authorize the FCC to complete the processing of your aggregated requests. You must unambiguously state that you authorize additional fees and specify the amount of fees you authorize.

To ensure receipt, please send your fee authorization to myself and to Stephanie Kost, copied on this email message. If we do not receive a response from you that meets these parameters by November 6, 2020, we will assume that you do not authorize additional fees and that you no longer seek responsive documents, and we will close FOIA 2021-000026.

Thanks,

Brendan McTaggart

Brendan McTaggart
Attorney Advisor
Office of General Counsel
Federal Communications Commission
brendan.mctaggart@fcc.gov

EXHIBIT 3

James Chelmowski
6650 N Northwest Hwy
Chicago, IL 60631

January 14, 2021

Federal Communications Commission Office of General Counsel
445 12th St SW
Washington, DC 20554

RE: Review of Freedom of Information Action for FCC control No. 2021-000026

In Matter of James Chelmowski On Request for Inspection of Records Control Number 2021-000026 (FCC will furnish the FCC file number and this Commissioners Memorandum Opinion and Order on or before February 11, 2021, in its Required Determination)

Dear Chairman Pai and Commissioners O’Rielly, Carr, Rosenworcel, and Starcks:

I, James Chelmowski (“Requestor”), am writing to appeal to Federal Communication Commission’s (“FCC”) response to Freedom of Information Act (“FOIA”) and Privacy Act (“PA”) request FCC 2021-000026 dated through FOIAonline on October 15, 2021 (“FOIA/PA Request”) and February 11, 2020 (“FOIA/PA Request Response”). This FOIA/PA Appeal is also pursuant to FCC regulations and policy an FOIA Application for Review for a full Commissioner vote with the names of the Chairman and Commissioners names involved with this FOIA/PA Appeal/Application for Review “Commissioners Memorandum Opinion and Order.”¹

The Requester WILL NOT CONSENT to any informal resolution² for this Application for Review to the Full Commission/FOIA/PA Appeal. As the Commission knows, note to paragraphs (i) & (j) 47 CFR 0.461³ requires the Requester Consent to informally resolve any Appeal/Application for Review (“Appeal/AFR”) issues.

The FCC must provide a Commission Memorandum Opinion and Order addressing with legal authority of these four (4) arguments in this Application for Review and FOIA Appeal no later than February 11, 2021. Similar to my FOIA Appeal/AFR which the Commission finally complied with their mandatory duties on providing a Commission Memorandum Opinion and Order FCC 19-28 for the FOIA Appeal/AFR FCC-2019-086.

I. The FOIA/PA Request

The FOIA/PA request was filed on October 15, 2021, which included the following:

This Request is under both FOIA 5 USC 552 and PRIVACY ACT 5 USC 552a for records related to James Chelmowski the Requester. Provide ANY and ALL documentation and communications regarding FCC FOIA and Privacy Act requests searches filed by this FOIA and Privacy Act requester. The FOIA and Privacy Act responses must include all communications and federal records regarding all details of the FOIA and Privacy Act searches. Including but not limited to FCC federal records that show the assignment of searches, the federal records of who performed the searches, all actual search details including but not limited to search terms, search location, records found, number of records found, etc.

The FCC Privacy Act Manager Leslie Smith stated under the penalty perjury in active District Court case 17-cv-1394. FCC Privacy Act Manager Leslie Smith that he had personal knowledge of the Privacy Act Searches in Privacy Act request with control numbers FCC-2017-000511, FCC-2018-000410 and FCC-2018-000425. He stated under the penalty of perjury executed on September 22, 2020 and filed with the District Court on October 9, 2020. The following FCC databases were searched for each of these 3 searches.

The search included the following systems of records:

- FCC/CGB-1: Informal Complaints, Inquiries, and Requests for Dispute Assistance
- FCC/EB-5: Enforcement Bureau Activity Tracking System (EBA TS)
- FCC/OGC-3: Adjudication of Internal Complaints against Employees
- FCC/OGC-5: Pending Civil Cases
- FCC/OGC-6: Private or Civil Injury Claimants
- FCC/OIG-3: Investigative Files
- FCC/OMD-16: Personnel Security Files
- FCC/OMD-17: Freedom of Information Act (FOIA) and Privacy Act Requests
- FCC/OMD-18: Telephone Call Details
- FCC/OMD-20: Inter-office and Remote Access Internet E-mail Systems

FCC Attorney Andrea Kearney stated under the penalty perjury in active District Court case 17-cv-1394. The facts that FCC conducted a Search for the FOIA requests FCC-2018-000311 and FCC-2018-000337. She stated under the penalty of perjury executed on September 22, 2020 and filed with the District Court on October 9, 2020.

FCC Attorney Joanne Wall stated under the penalty perjury in active District Court case 16-cv-5587. The facts that FCC conducted a Search for the FOIA requests FCC-2015-000768, FCC-2015-000769 and FCC-2016-000345. She stated under the penalty of perjury executed on December 13, 2016 and filed with the District Court on December 13, 2020.

Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394. Any FCC delays on producing ALL these FOIA and Privacy Act responsive records should be considered by the active District Court as concealment and obstruction of material facts and evidence for the Requester to brief in active District Court case 17-cv-1394.

II. FCC FOIA Email

The FCC provided an email for FOIA FCC-2021-000026 response on October 23, 2020, See exhibit 2.

FCC FOIAonline records stated the final disposition was Fee-Related Reasons and the FCC closed the FOIA request FCC-2021-000026 on November 16, 2020. See exhibit 3.

The Response email with no letter or signature stated the following:

Mr. Chelmowski,

We have received your October 15, 2020 request, assigned FOIA 2021-000026, filed under both the Privacy Act and the Freedom of Information Act (FOIA), seeking “records relating to James Chelmowski,” and more specifically “all communications and federal records regarding all details of the FOIA and Privacy Act searches [filed by you], including but not limited to FCC federal records that show the assignment of searches, the federal records of who performed the searches, all actual search details including but not limited to search terms, search location, records found, number of records found, etc.”

With this email, we address considerations to the FOIA component of your request. Representatives from the Commission’s Privacy Office will follow-up under separate cover to address separate considerations related to the Privacy Act.

With respect to the FOIA, we are aggregating FOIA 2021-000026 with a number of your previous FOIA requests also seeking records about yourself. See FOIA 2019-000443 (seeking “all FCC internal and external emails with all attachments regarding me the FOIA/Privacy Act Requester James Chelmowski from January 1, 2014 to the later of the FOIA/Privacy Act request date May 20, 2019 or the date of this FOIA and Privacy Act request search including all the FCC identifications of this FOIA and Privacy Act requester’s name including but not limited to ‘Chelmowski,’ and all aliases identifiers provided by the FCC like the newly discovered name identifier the FCC Chairman, Commissioners, FCC attorneys and/or other FCC employees have been using to identify me like ‘Mr. C”); FOIA 2019-000171 (seeking “Joanne Wall’s emails from September 1, 2015 to January 7, 2019 that contained this FOIA and Privacy Act requester’s name (James Chelmowski) of the individual ‘Chelmowski’ or by some identifying number, symbol, or other identifying terms particular assigned to me by the FCC or Joanne Wall”).

As you know, FOIA 2019-000443 and FOIA 2019-000171 were aggregated for fee purposes and closed when you declined to authorize additional fees necessary to complete the searches and process the responsive documents. Inasmuch as FOIA 2021-000026 substantially covers and expands upon the very same documents that are responsive to these previous requests, we believe that aggregation is appropriate. We decline to treat FOIA 2021-000026 as a new request and undertake an additional two hours of free search time for these documents, merely because it was filed later in time.

Accordingly, please let us know by reply email within two weeks from the date of this message (by November 6, 2020) if you wish to authorize additional fees to resume the search for responsive documents previously begun and if you authorize the FCC to complete the processing of your aggregated requests. You must unambiguously state that you authorize additional fees and specify the amount of fees you authorize.

To ensure receipt, please send your fee authorization to myself and to Stephanie Kost, copied on this email message. If we do not receive a response from you that meets these parameters by November 6, 2020, we will assume that you do not authorize additional fees and that you no longer seek responsive documents, and we will close FOIA 2021-000026.

Thanks,

Brendan McTaggart

Attorney Advisor
Office of General Counsel
Federal Communications Commission
brendan.mctaggart@fcc.gov

III. Arguments

Argument #1 - FCC Attorney Brendan Email Does Not Comply FOIA Law and FCC Regulations

The FCC regulations 47 CFR 0.461 (m) Staff orders and letters ruling on requests for inspection are signed by the official (or officials) who give final approval of their contents. Decisions of the Commission ruling on applications for review will set forth the names of the Commissioners participating in the decision.

The FCC attorney Brendan McTaggart only provide an email no letter and no signature.

There was required signed letter ruling on this request. This is not a FOIA response by FCC regulations 47 CFR 0.461(m) or requirements in FOIA law.

See other Fee estimate signed letters in Exhibit 4.

See other Aggregating Response signed letters in Exhibit 5.

The FCC Chairman and Commissioner must provide the FCC regulations that an email is a signed letter response and meets ALL FCC FOIA requirements in the FCC regulations, directives, policies and procedures.

The Commissioners Memorandum Opinion Order must state why the FCC Chairman and Commissioners believe this email is a signed fee estimate letter within 20 days not including weekends and federal holidays.

Argument #2 - Fee Estimates Requires A Fee Estimate Amount

The Requester authorized up to \$25 in FOIA fees when he submitted this FOIA and Privacy Act Request.

The FCC provide no fee estimate amount. The FCC did state any amount greater than \$25 either.

This is not a Fee Estimate. See other FCC Fee Estimate Signed Letters in Exhibit 4.

This is clearly a Fraudulent Concealment scheme because as the Requester paid in Advance the FULL ESTIMATE in FCC-2019-171 because the responsive records would prove FCC corruption the FCC then demanded Unlimited Fees to make sure the FCC could fraudulently conceal the records the FCC needed to conceal their corruption no matter how much the Requester authorized or paid.

The FCC Chairman and Chairman must show the LEGALITY and LEGAL Authority of this NEW Fee Demands with no Fee Estimated Fee amount.

Argument #3 - FCC Cannot Demand Specific Language and Parameters in Fee Authorization.

FOIA law only requires the Requester state a maximum Fee amount they authorized which the Requester put on FOIAonline \$25. FOIAonline did not require any other language.

FCC cannot demand specific language and Specific Parameters apparently using threats and intimidations like the FCC and attorney McTaggart stated:

Accordingly, please let us know by reply email within two weeks from the date of this message (by November 6, 2020) if you wish to authorize additional fees to resume the search for responsive documents previously begun and if you authorize the FCC to complete the processing of your aggregated requests. You must unambiguously state that you authorize additional fees and specify the amount of fees you authorize.

To ensure receipt, please send your fee authorization to myself and to Stephanie Kost, copied on this email message. If we do not receive a response from you that meets these parameters by November 6, 2020, we will assume that you do not authorize additional fees and that you no longer seek responsive documents, and we will close FOIA 2021-000026.

The FCC Chairman and Commissioners decision must provide legal authority to demand specific language and parameters. Instead of just a simple maximum amount you authorize per FOIA law and FOIAonline.

The FCC Chairman and Commissioner must also prove this email was not the FCC use of threats and intimidation.

Argument #4 – FCC Cannot Demand a FOIA Requester to RE-Open a FOIA Request that was closed, and an Appeal was Filed with the FCC

The FCC attorney demanded that the Requester re-open FOIA/PA FOIA FCC-2019-000171 after he paid the FULL FEE Estimate through USPS. See Exhibit 7

The FCC closed this FOIA Request with final disposition of Partial Grant / Partial Denial on FOIAonline on March 29, 2019. See Exhibit 8.

The Requester Appealed this Request on or about June 26, 2019. See Exhibit 9. With the following Arguments:

Argument 1 - Inadequate Search and/or Responsive Records being Wrongfully/Improperly Withheld.

Argument 2 – FCC Cannot Charge Search Fees for Records Related to the Requester.

Argument 3 – FCC Cannot Charge Search Fees for Records after Failure to Comply with All Deadlines.

Argument 4 – FCC and the Commission Cannot Use Threats, Intimidation and/or Extortion to Use Only FCC demanded Language in the Requester’s Response to the FCC to Deny a Requester’s Rights.

Argument 5. FCC Wrongfully Alleged Combining FOIA/PA Requests to Deny Requesters Rights and Inflated Illegal Search Fees.

Argument 6. FCC Must Conduct Searches the Most Efficient Way.

The FCC dismissed the Appeal with addressing any of the Application For Review or Appeal Arguments with a Final Disposition of Improper Request for Other Reasons on or about July 22, 2019.

The FCC, FCC Chairman and Commissioners needs to provide Legal Authority for these actions and demands.

IV. Conclusion

The burden of proof is on the defendant agency, which must justify its decision to withhold any information. See 5 USC § 552(a)(4)(B); *Solar Sources, Inc. v. United States*, 142 F.3d 1033, 1037 (7th Cir. 1998)

This is not a duplicate argument the FCC Commission that already made an Appeal/Application for Review to the Full Commission determination in any my prior Appeal/AFR's.

Argument #1 - FCC Attorney Brendan Email Does Not Comply FOIA Law and FCC Regulations

Argument #2 - Fee Estimates Requires A Fee Estimate Amount

Argument #3 - FCC Cannot Demand Specific Language and Parameters in Fee Authorization.

Argument #4 – FCC Cannot Demand a FOIA Requester to RE-Open a FOIA Request that was closed, and an Appeal was Filed with the FCC

The FCC Chairman and Commissioners must comply with their mandatory duties and make their Appeal/Application for Review decision on these four (4) arguments in this FOIA/PA request Appeal/Application for review by February 11, 2021.

The FCC Chairman and Commissioners finally complied with their mandatory duties for the first time on April 4, 2019, in providing a Memorandum Opinion and Order 19-28. Through omission, negligence and/or willful conduct, the FCC and Commission did not provide Memorandum Opinion and Orders for all my other Ten (10) Appeal/AFRs filed prior to this FOIA Appeal / Application for Review, which were their mandatory duties by federal laws, regulations, directives, policy and/or procedures.

THIS REQUESTER **WILL NOT CONSENT** TO THE FCC GENERAL COUNSEL OR ANYONE ELSE TO INFORMALLY RESOLVING THIS FOIA APPEAL/APPLICATION FOR REVIEW TO THE FULL COMMISSION.

The FCC and FCC Commissioners deadlines by law, regulations and directives of 20 days (excepting Saturdays, Sundays, and legal public holidays for an Appeal/AFR DETERMINATION pursuant to FOIA 5 USC 552(a)(6) with determination by an FCC Memorandum Opinion and Order by the Commissioners pursuant to 47 CFR 0.461 and FCC FOIA Directive 1179.3. No later than February 11, 2021, to comply with the written Determination and Commissioners Memorandum Opinion and Order.

Sincerely,

/s/ James Chelmowski
James Chelmowski
FOIA/PA Requestor

EXHIBIT 4



Federal Communications Commission
Washington, D.C. 20554

February 9, 2021

VIA ELECTRONIC MAIL

James Chelmowski
6650 N. Northwest Highway, #300
Chicago, Illinois 60631
jchelmowski@comcast.net

Re: FOIA 2021-000026 (Request), FOIA 2021-000184 (Application for Review)

Mr. Chelmowski:

By this letter, we respond to your Application for Review (AFR) dated January 14, 2021, appealing the agency's processing of your request, assigned FOIA 2021-000026, filed under both the Privacy Act and the Freedom of Information Act (FOIA).¹ Through this request you sought "records relating to James Chelmowski," and more specifically "all communications and federal records regarding all details of the FOIA and Privacy Act searches [filed by you,] [i]ncluding but not limited to FCC federal records that show the assignment of searches, the federal records of who performed the searches, all actual search details[,] [i]ncluding but not limited to search terms, search location, records found, number of records found, etc."²

Our initial October 23, 2020 response addressed the FOIA component of your request, aggregating it with a number of your previous FOIA requests also seeking records about yourself, and requesting your authorization of additional fees and in a specific amount.³ We closed your request after you failed to respond to our October 23, 2020 email or authorize any additional fees.

In your AFR, you raise several arguments. First, you state that the October 23, 2020 email to you, to the extent that it is considered a staff order or ruling, did not comport with section 0.461(m) of the Commission's rules which requires such orders or letters to be signed by the official (or officials) who provided final approval of the content contained therein. You also argue that the agency must provide a specific estimated fee amount, and that the agency may not require authorization of additional fees over the \$25 you authorized at filing. Finally, you state that aggregation with FOIA

¹ FOIA 2021-000184 (filed Jan. 14, 2021).

² FOIA 2021-000026 (filed Oct. 15, 2020). Note, in order to ensure proper administration, the Privacy Act portions of your request were subsequently assigned control number FOIA 2021-000039.

³ See Email from Brendan McTaggart, Office of General Counsel, FCC to James Chelmowski (Oct. 23, 2020 11:44am EDT).

2019-000171, which was processed in part and closed for failure to authorize additional fees, was improper.⁴

In response to your AFR, we reinstate FOIA 2021-000026 and consistent with your status as an “all other requester,”⁵ we afford you two hours of free search time. We also provide an estimate of the additional fees, if any, required to complete the processing of FOIA 2021-000026. With respect to fees, based upon discussions with Commission staff within the Office of the Managing Director, we expect that the search for records in FOIA 2021-000026 can be accomplished within the two hours afforded to “all other requesters” under the Commission’s rules and that any records yielded can be transmitted electronically.

As such, we do not anticipate that you will incur any fees in connection with FOIA 2021-000026 as currently constructed. To the extent that the search for these records takes more than two hours, we would undertake additional searches consistent with the search fees you authorize, including the \$25 authorized initially.

We note that unlike previous fee estimates provided to you which were based on the searches of individual custodians, this estimate was based on an automated search undertaken by the Commission’s Information Technology (IT) staff. The Commission currently has limited resources in which to undertake such automated searches. In this particular case, in light of the fact that several of the custodians who likely would have responsive records are no longer employed by the agency, we determined that employing limited IT resources was justified and the only means to effectuate a reasonable search.

We further note that with respect to FOIA 2021-000026, IT has indicated that a Commission-wide search for emails mentioning “Chelmowski” alone yielded more than 97,000 results. We believe the time and resources required for staff to review and process this volume of records likely poses an undue burden on the Commission. Accordingly, we ask that, within 30 days from the date of this letter, you indicate whether you remain interested in pursuing this FOIA request as well as your willingness to narrow the scope of your current request so that it can be processed without posing an undue burden on the agency’s resources. Please contact Christopher Santini (christopher.santini@fcc.gov) in the Office of General Counsel to facilitate further discussion on this matter.

By taking these actions and issuing this letter, your AFR is moot. Accordingly, we dismiss your AFR under section 0.251(j) of the Commission’s rules.⁶ As stated, FOIA 2021-000026 is now reinstated, pending further input as requested above.

⁴ *See supra* note 1.

⁵ Pursuant to section 0.466(a)(8) of the Commission’s rules, an “all other requester” is responsible for the full, reasonable direct cost of searching for and reproducing records that are responsive to the request, exempting the first 100 pages of reproduction and the first two hours of search time.

⁶ 47 CFR § 0.251(j) (delegating authority to the General Counsel, among other things, “to dismiss FOIA applications for review that are untimely, repetitious, or fail to articulate specific grounds for review”).

If you consider this to be a denial of your AFR, you may seek review by filing an additional AFR with the Office of General Counsel. An AFR must be *received* by the Commission within 90 calendar days of the date of this letter.⁷ You may file an AFR by mailing the application to Federal Communications Commission, Office of General Counsel, 45 L Street NE, Washington, DC 20554, or you may file your AFR electronically by e-mailing it to FOIA-Appeal@fcc.gov. Please caption the envelope (or subject line, if via e-mail) and the application itself as “Review of Freedom of Information Action.”

If you would like to discuss this response before filing an AFR to attempt to resolve your dispute without going through the appeals process, you may contact the Commission’s FOIA Public Liaison for assistance at:

FOIA Public Liaison
Federal Communications Commission, Office of the Managing Director,
Performance Evaluation and Records Management
45 L Street NE, Washington, DC 20554
202-418-0440
FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission’s FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road–OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
<https://www.archives.gov/ogis>

Sincerely,



Elizabeth Lyle
Assistant General Counsel
Administrative Law Division

cc: FCC FOIA Office

⁷ 47 CFR §§ 0.461(j), 1.115; 47 CFR § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

EXHIBIT 5

Andrea Kearney

From: Scott Noveck
Sent: Thursday, February 18, 2021 3:50 PM
To: Elizabeth Lyle
Cc: Christopher Santini;Andrea Kearney;Brendan McTaggart
Subject: RE: Need Past due FOIA Appeal Commission Decision for Request 2021-000026 - Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision

In the litigation, his opposition to our summary-judgment motion and his cross-motion for summary judgment was supposed to be due yesterday, but it looks like he's secured another extension to March 16 — even though I'd thought further lengthy extensions were unlikely — so expect the badgering to continue.

From: Elizabeth Lyle <Elizabeth.Lyle@fcc.gov>
Sent: Thursday, February 18, 2021 3:25 PM
To: Scott Noveck <Scott.Noveck@fcc.gov>
Cc: Christopher Santini <Christopher.Santini@fcc.gov>; Andrea Kearney <Andrea.Kearney@fcc.gov>; Brendan McTaggart <Brendan.McTaggart@fcc.gov>
Subject: FW: Need Past due FOIA Appeal Commission Decision for Request 2021-000026 - Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision
Importance: High

From: (b) (6)
Sent: Thursday, February 18, 2021 2:53 PM
To: FOIA <foia@fcc.gov>; Elizabeth Lyle <Elizabeth.Lyle@fcc.gov>; Jessica Rosenworcel <Jessica.Rosenworcel@fcc.gov>; Brendan Carr <Brendan.Carr@fcc.gov>; Geoffrey Starks <Geoffrey.Starks@fcc.gov>; Nathan Simington <Nathan.Simington@fcc.gov>; Christopher Santini <Christopher.Santini@fcc.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov
Subject: Need Past due FOIA Appeal Commission Decision for Request 2021-000026 - Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision
Importance: High

Dear FCC, FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington.

For the FCC and DOJ OIP reference attached are FCC FOIA Appeal and Application For Review when the FCC Chairman and Commissioners decided to comply with their mandatory duties for Requesters not named James Chelmowski. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search; FCC-17-5 FOIA AFR Inadequate Search; and FCC-17-110 FOIA AFR Inadequate Search.

Please provide by the end of the week February 19, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.

As the FCC knows,

- a) The FCC FOIA Appeal and Application for Review Decision (ie FCC FOIA Appeal Decision with the right to judicial review) on my FOIA Appeal and Application for Review arguments is now past due.
- b) The February 9, 2021 letter by FCC attorney Elizabeth Lyle did not comply with federal law, regulation, policy, and procedure. She did confirm the FCC FOIA response actions were not valid. She confirmed the FCC finally made a proper FOIA search and located 97,000 emails with my name. However, did not meet the FOIA federal law, regulations, directive, policy, and procedures requirements.

FOIA Federal Law:

5 USC 552(a)(6)(A)(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

5 USC 552(a)(4)(A)(viii)(I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6).

FOIA FCC Regulations:

The FCC is required pursuant 47 CFR 0.461(m) - Staff orders and letters ruling on requests for inspection are signed by the official (or officials) who give final approval of their contents. **Decisions of the Commission ruling on applications for review will set forth the names of the Commissioners participating in the decision.** (emphasis added)

- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced.

Since, the FCC seems to believe the federal laws and regulations, policies, and procedures have an exclusion for anyone named James Chelmowski. So, I will summarize what the FCC is required to do per my rights and please provide the dates the FCC will comply with my rights.

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced.

Please respond with the date to the above 2 items by February 22, 2021.

For the FCC and DOJ OIP reference attached are FCC FOIA Appeal and Application For Review when the FCC Chairman and Commissioners decided to comply with their mandatory duties for Requesters not named James Chelmowski. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search; FCC-17-5 FOIA AFR Inadequate Search; and FCC-17-110 FOIA AFR Inadequate Search.

Sincerely,

James Chelmowski

Attachments:

EXHIBIT 6

jchelmowski@comcast.net

From: jchelmowski@comcast.net
Sent: Monday, March 8, 2021 10:43 AM
To: 'Christopher Santini'; 'Stephanie Kost'; Michele.Ellison@fcc.gov; foia@fcc.gov
Cc: OIP.ComplianceInquiry@usdoj.gov
Subject: Eight (8th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184
Attachments: FCC-2021-000026 Request Details on 3-8-21 closed fee related reason.pdf; FCC-2021-000184 Appeal Details on 3-8-21 - Final Disposition Closed for Other Reasons - Duplicate Request or Appeal.pdf; Application For Review and FOIA Appeal FCC-2021-000026.pdf; 1- 47 CFR § 0.461 - Requests for inspection of materials not routinely available for public inspection.pdf; 2 - FCC Elizabeth Lyle non-compliance letter dated 2-9-21 identifying FCC apparently conducted a proper FOIA search and found 97000 emails.pdf
Importance: High

Dear Mr. Santini, Ms. Kost, Ms. Ellison, and the FCC.

Please provide in writing before 5pm today March 8, 2021:

- 1) Whether the FCC will provide my rights to FOIA Public Liaison service or not.
- 2) All communications the FCC sent to National Archives and Records Administration OGIS apparently on my behalf without my consent.
- 3) Legal authority the FCC could file on behalf of me OGIS request without my consent.

This regarding my FOIA Public Liaison request sent 7 times before for the following four (4) items:

- 1) I have met all my legal obligations for FOIA and Privacy Act request FCC-2021-000026 and my Application for Review and Appeal for the request that that the FCC provided control number FCC-2021-00184 for
- 2) The dates the FCC will comply with their obligations by federal laws and regulations on my Application for Review and FOIA Appeal for the FOIA and Privacy Act Request FCC-2021-000026.
- 3) The dates the FCC will begin and complete producing all responsive records for FOIA and Privacy Act request FCC-2021-000026.
- 4) The exact legal authority of the FCC and FCC attorney Elizabeth Lyle's February 8, 2021 letter and the FCC demands from me.

I expect all the 4 Items above in my now 8th Request for my rights for FOIA Public Liaison and/or these 3 items below ASAP and no later than 5pm today March 8, 2021:

- 1) Whether the FCC will provide my rights to FOIA Public Liaison service or not.
- 2) All communications the FCC sent to National Archives and Records Administration OGIS apparently on my behalf without my consent.
- 3) Legal authority the FCC could file on behalf of me OGIS request without my consent.

The FCC not providing responses to any of these 7 items in this email by 5pm today March 8, 2021 will be legally deemed the FCC no legal authority to the FCC actions regarding this Application for Review, FOIA Appeal and FOIA request to any and all District Court(s).

Sincerely

James Chelmowski

FOIA Requester

Bcc:

From: Christopher Santini <Christopher.Santini@fcc.gov>

Sent: Monday, March 8, 2021 9:21 AM

To: jchelmowski@comcast.net

Cc: Stephanie Kost <Stephanie.Kost@fcc.gov>

Subject: RE: Seventh (7th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Mr. Chelmowski,

Last week we were contacted by National Archives and Records Administration's Office of Government Information Services (OGIS) on your behalf and in relation to the items raised in your correspondence concerning FOIAs 2021-000026/2021-000184. We look forward to resolving any outstanding issues related to your FOIA requests through this intermediary.

Best,

Christopher Santini
Senior Counsel
Office of General Counsel
Federal Communications Commission
(202) 418-1724
christopher.santini@fcc.gov

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Monday, March 08, 2021 8:06 AM

To: Stephanie Kost <Stephanie.Kost@fcc.gov>; Michele Ellison <Michele.Ellison@fcc.gov>; FOIA <foia@fcc.gov>

Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov

Subject: Seventh (7th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Dear FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison.

Why am I not getting a written response for the FCC? Why is FCC FOIA Public Liaison refusing to comply with her responsibilities required by federal law? How many times do I need to request this?

What new negligent and/or fraudulent concealment scheme is going on see FOIAonline for the Appeal and Request Final Dispositions (see attached files named)

FCC-2021-000184 Appeal Details on 3-8-21 - Final Disposition Closed for Other Reasons - Duplicate Request or Appeal

FCC-2021-000026 Request Details on 3-8-21 closed fee related reason

The FCC know these are both FASLE Statements on the FOIA Request, FOIA Appeal and Application for Review to the Full Commission Final Dispositions!

The FCC knows that on February 9, 2021 the **FCC and FCC Elizabeth Lyle imposed a 30-day deadline from me to respond or apparently the FCC legal authority to deny my rights pursuant Federal Laws**. The FCC refuses to provide response from my 5 emails to the FOIA Public Liaison and 3 emails to the FCC and FCC Christopher Santini the person I must send my response to within 30 days from February 9, 2021.

The FCC provided NO LEGAL AUTHORITY for this deadline (apparent threat) or for the Elizabeth Lyle February 9, 2021 letter to date.

This is the 6th request for my rights pursuant federal law 5 USC 552 (I) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. **FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

The FCC, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison knows the 30-day deadline imposed by the FCC in FCC attorney Elizabeth Lyle February 9, 2021 letter (attached). However the FCC, FCC Christopher Santini, FCC Elizabeth Lyle, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison refuse to respond in writing that my now 6 requests for FCC FOIA Public Liaison Requests and 3 emails to the FCC and FCC Christopher Santini.

Why is FCC FOIA Public Liaison Stephanie Kost, and Michele Ellison responsible for the FCC FOIA and FCC FOIA Public Liaison to assisting in reducing delays, increasing transparency and understanding the status of my requests, appeal and application for review. Plus, FOIA Public Liaison is responsible in assisting the resolution in disputes which includes the following:

- 1) I have met all my legal obligations for FOIA and Privacy Act request FCC-2021-00026 and my Application for Review and Appeal for the request that that the FCC provided control number FCC-2021-00184 for
- 2) The dates the FCC will comply with their obligations by federal laws and regulations on my Application for Review and FOIA Appeal for the FOIA and Privacy Act Request FCC-2021-000026.
- 3) The dates the FCC will begin and complete producing all responsive records for FOIA and Privacy Act request FCC-2021-000026.
- 4) The exact legal authority of the FCC and FCC attorney Elizabeth Lyle's February 8, 2021 letter and the FCC demands from me.

As the FCC knows, the FCC has a history of providing apparently false, misleading, misrepresented ,and/or deceitful statements regarding me not complying with the FOIA and/or FCC required deadlines even to District Court Judges including Honorable Judges Sharon Johnson Coleman and James Boasberg.

As the FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison knows the FCC with apparently legal authority imposed a 30-day deadline on me which ends next week. **Therefore, I am forced to try to obtain my legal rights to possibly send this email up to twice a day to prove to the District Court when if ever the FCC will comply with federal laws and regulations including but not limited to 5 USC 552(I) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

I hope I am not forced to resend this email possibly twice a day to document that I meet all my legal obligations and finding out when the FCC will meet all the FCC legal obligations for my FOIA & Privacy Act Request FCC-2021-000026, Application for Review for this request, and FOIA Appeal for this request.

No one should be required to email the FOIA Public Liaison and Chief FOIA Officer six (6) times or more to get his rights to federal laws and regulations including **but not limited to 5 USC 552(I) FOIA Public Liaisons shall be responsible for**

assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

Sincerely

James Chelmowski

FOIA and Privacy Act Requester

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Friday, March 5, 2021 9:57 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'Michele.Ellison@fcc.gov' <Michele.Ellison@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>

Subject: Sixth (6th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Importance: High

Dear FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison.

The FCC knows that on February 9, 2021 the **FCC and FCC Elizabeth Lyle imposed a 30-day deadline from me to respond or apparently the FCC legal authority to deny my rights pursuant Federal Laws.** The FCC refuses to provide response from my 5 emails to the FOIA Public Liaison and 3 emails to the FCC and FCC Christopher Santini the person I must send my response to within 30 days from February 9, 2021.

The FCC provided NO LEGAL AUTHORITY for this deadline (apparent threat) or for the Elizabeth Lyle February 9, 2021 letter to date.

This is the 6th request for my rights pursuant federal law 5 USC 552 (I) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. **FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

The FCC, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison knows the 30-day deadline imposed by the FCC in FCC attorney Elizabeth Lyle February 9, 2021 letter (attached). However the FCC, FCC Christopher Santini, FCC Elizabeth Lyle, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison refuse to respond in writing that my now 6 requests for FCC FOIA Public Liaison Requests and 3 emails to the FCC and FCC Christopher Santini.

Why is FCC FOIA Public Liaison Stephanie Kost, and Michele Ellison responsible for the FCC FOIA and FCC FOIA Public Liaison to assisting in reducing delays, increasing transparency and understanding the status of my requests, appeal and application for review. Plus, FOIA Public Liaison is responsible in assisting the resolution in disputes which includes the following:

- 1) I have met all my legal obligations for FOIA and Privacy Act request FCC-2021-00026 and my Application for Review and Appeal for the request that that the FCC provided control number FCC-2021-00184 for
- 2) The dates the FCC will comply with their obligations by federal laws and regulations on my Application for Review and FOIA Appeal for the FOIA and Privacy Act Request FCC-2021-000026.
- 3) The dates the FCC will begin and complete producing all responsive records for FOIA and Privacy Act request FCC-2021-000026.

- 4) The exact legal authority of the FCC and FCC attorney Elizabeth Lyle's February 8, 2021 letter and the FCC demands from me.

As the FCC knows, the FCC has a history of providing apparently false, misleading, misrepresented, and/or deceitful statements regarding me not complying with the FOIA and/or FCC required deadlines even to District Court Judges including Honorable Judges Sharon Johnson Coleman and James Boasberg.

As the FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison knows the FCC with apparently legal authority imposed a 30-day deadline on me which ends next week. **Therefore, I am forced to try to obtain my legal rights to possibly send this email up to twice a day to prove to the District Court when if ever the FCC will comply with federal laws and regulations including but not limited to 5 USC 552(l) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

I hope I am not forced to resend this email possibly twice a day to document that I meet all my legal obligations and finding out when the FCC will meet all the FCC legal obligations for my FOIA & Privacy Act Request FCC-2021-000026, Application for Review for this request, and FOIA Appeal for this request.

No one should be required to email the FOIA Public Liaison and Chief FOIA Officer six (6) times or more to get his rights to federal laws and regulations including **but not limited to 5 USC 552(l) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

Sincerely

James Chelmowski

FOIA and Privacy Act Requester

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Thursday, March 4, 2021 8:57 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'Michele.Ellison@fcc.gov' <Michele.Ellison@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'privacy@fcc.gov' <privacy@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>

Subject: Fifth Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Importance: High

Dear FCC and FCC's FOIA Public Liaison Stephanie Kost, P. Michele Ellison, FCC Chief FOIA Officer and General Counsel, Christopher Santini, FCC Chairman and Commissioners.

FIFTH REQUEST! The FCC and FCC FOIA Public Liaison Stephanie Kost, FCC Commissioner Jessica Rosenworcel, and Commissioners Brendan Carr, Geoffrey Starks, Nathen Simington, etc. are apparently denying my rights.

The FCC, Chairman, Commissioners, and staff are either negligently or fraudulently concealing these responsive records regarding my and refusing to comply with their mandatory duties required by federal law, regulations, directives, policies, and procedures.

When will the FCC comply with Federal laws regarding my rights? Do I need to send this Official FOIA Public Liaison request over 10 times before the FCC will comply with federal law?

Of course, this email and the other emails to Stephanie Kost, Christopher Santini, Michele Ellison, Jessica Rosenworcel, Brendan Carr, Geoffrey Starks, and Nathan Simington state for as a fact I want all my responsive records for all my FOIA and Privacy Act requests.

The FCC new concealment scheme of the FCC apparently requiring me additional responses from the FCC after the FCC provided letters after my Appeals and Responses asking me to reply which I have and the FCC cannot use any new or old concealment scheme to deny my rights to the FCC federal records by federal laws FOIA 5 USC 552 and Privacy Act 5 USC 552a.

If I don't receive the FOIA Public Liaison response and now this my Fourth Request for FCC to comply with Federal Laws and my rights. This email is also being sent to the OGIS and DOJ. The FCC, Commission (FCC Chairman and Commissioners), and FCC FOIA Public Liaison response or no response will be documented with the OGIS and DOJ on complying with federal laws, regulations, policies, and procedures.

Since, the FCC refused to provide my rights again. Please provide the FCC FOIA Public Liaison response in **a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.** So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before March 4, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Tuesday, March 2, 2021 8:51 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'Michele.Ellison@fcc.gov' <Michele.Ellison@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'privacy@fcc.gov' <privacy@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>

Subject: Fourth Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Importance: High

Dear FCC and FCC's FOIA Public Liaison Stephanie Kost, P. Michele Ellison, FCC Chief FOIA Officer and General Counsel, Christopher Santini, FCC Chairman and Commissioners.

When will the FCC comply with Federal laws regarding my rights? Do I need to send this Official FOIA Public Liaison request over 10 times before the FCC will comply with federal law?

Of course, this email and the other emails to Stephanie Kost, Christopher Santini, Michele Ellison, Jessica Rosenworcel, Brendan Carr, Geoffrey Starks, and Nathan Simington state for as a fact I want all my responsive records for all my FOIA and Privacy Act requests.

The FCC new concealment scheme of the FCC apparently requiring me additional responses from the FCC after the FCC provided letters after my Appeals and Responses asking me to reply which I have and the FCC cannot use any new or old concealment scheme to deny my rights to the FCC federal records by federal laws FOIA 5 USC 552 and Privacy Act 5 USC 552a.

If I don't receive the FOIA Public Liaison response and now this my Fourth Request for FCC to comply with Federal Laws and my rights. This email is also being sent to the OGIS and DOJ. The FCC, Commission (FCC Chairman and Commissioners), and FCC FOIA Public Liaison response or no response will be documented with the OGIS and DOJ on complying with federal laws, regulations, policies, and procedures.

Since, the FCC refused to provide my rights again. Please provide the FCC FOIA Public Liaison response in **a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.** So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before March 4, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Friday, February 26, 2021 8:15 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; foia@fcc.gov; privacy@fcc.gov; ogis@nara.gov; Jessica.Rosenworcel@fcc.gov; Brendan.Carr@fcc.gov; Geoffrey.Starks@fcc.gov; Nathan.Simington@fcc.gov; christopher.santini@fcc.gov

Cc: OIP.ComplianceInquiry@usdoj.gov

Subject: Third Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Importance: High

Dear FCC and FCC's FOIA Public Liaison Stephanie Kost,

If I don't receive the FOIA Public Liaison response and now this my Third Request for FCC to comply with Federal Laws and my rights. This email is also being sent to the OGIS and DOJ. The FCC, Commission (FCC Chairman and Commissioners), and FCC FOIA Public Liaison response or no response will be documented with the OGIS and DOJ on complying with federal laws, regulations, policies, and procedures.

Please provide the FCC FOIA Public Liaison response in **a written signed letter no later than 5pm February 26, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures**. So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.

- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before February 25, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 5pm February 26, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Tuesday, February 23, 2021 6:35 PM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'privacy@fcc.gov' <privacy@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>

Subject: FW: Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Importance: High

Dear FCC and FCC's FOIA Public Liaison,

If I don't receive the FOIA Public Liaison response with the dates requested by 10:00am February 24, 2021, I will be filing a request for OGIS mediation.

Please provide the FCC FOIA Public Liaison response in a written signed letter no later than 10:00am February 24, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures. So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before February 25, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 10:00am February 24, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures. So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Sunday, February 21, 2021 11:32 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>

Subject: Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Importance: High

Ms. Stephanie Kost and the FCC

Please all parties provide written receipt confirming you received and read this email since the FCC has denied receipt of my emails in the past.

Please find the attached Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186 for records regarding the Requester. (i.e. First Party Request)

The FCC needs to provide dates I requested last week by February 23, 2021. If the FCC needs more time to provide these dates the FCC could provide an interm writing response by February 23, 2021 with the dates and why the FCC needs more time to provide dates on past due FCC mandatory duties.

Thank you,

James Chelmowski

FOIA and Privacy Act requesters.

See request below in this email

Stephanie Kost, FCC FOIA Public Liaison & the FCC
Federal Communication Commission

Sent by email to with Microsoft Outlook Read Confirmation

February 21, 2021,

RE: Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Dear Ms. Kost FCC's FOIA Public Liaison and the FCC:

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before February 25, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Since, the FCC seems to believe the federal laws and regulations, policies, and procedures have an exclusion for anyone named James Chelmowski. So, I will summarized what the FCC is required to do per my rights and please provide the dates the FCC will comply with my rights.

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

Again, I need the dates the FCC will comply with to federal laws, regulations, directives, policies, and procedures for Application for Review and FOIA Appeal control number FCC 2021-000184 see attached for the Application for Review and FOIA Appeal as the FCC does for requesters not named Chelmowski.

I need the response with these dates by February 23, 2021.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

Attachments

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Thursday, February 18, 2021 1:53 PM

To: 'foia@fcc.gov' <foia@fcc.gov>; 'elizabeth.lyle@fcc.gov' <elizabeth.lyle@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov'

<Jessica.Rosenworcel@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>

Subject: Need Past due FOIA Appeal Commission Decision for Request 2021-000026 - Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision

Importance: High

Dear FCC, FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington.

For the FCC and DOJ OIP reference attached are FCC FOIA Appeal and Application For Review when the FCC Chairman and Commissioners decided to comply with their mandatory duties for Requesters not named James Chelmowski. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search; FCC-17-5 FOIA AFR Inadequate Search; and FCC-17-110 FOIA AFR Inadequate Search.

Please provide by the end of the week February 19, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.

As the FCC knows,

- a) The FCC FOIA Appeal and Application for Review Decision (ie FCC FOIA Appeal Decision with the right to judicial review) on my FOIA Appeal and Application for Review arguments is now past due.
- b) The February 9, 2021 letter by FCC attorney Elizabeth Lyle did not comply with federal law, regulation, policy, and procedure. She did confirm the FCC FOIA response actions were not valid. She confirmed the FCC finally made a proper FOIA search and located 97,000 emails with my name. However, did not meet the FOIA federal law, regulations, directive, policy, and procedures requirements.

FOIA Federal Law:

5 USC 552(a)(6)(A)(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

5 USC 552(a)(4)(A)(viii)(I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6).

FOIA FCC Regulations:

The FCC is required pursuant 47 CFR 0.461(m) - Staff orders and letters ruling on requests for inspection are signed by the official (or officials) who give final approval of their contents. **Decisions of the Commission ruling on applications for review will set forth the names of the Commissioners participating in the decision.** (emphasis added)

- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced.

Since, the FCC seems to believe the federal laws and regulations, policies, and procedures have an exclusion for anyone named James Chelmowski. So, I will summarize what the FCC is required to do per my rights and please provide the dates the FCC will comply with my rights.

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced.

Please respond with the date to the above 2 items by February 22, 2021.

For the FCC and DOJ OIP reference attached are FCC FOIA Appeal and Application For Review when the FCC Chairman and Commissioners decided to comply with their mandatory duties for Requesters not named James Chelmowski. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search; FCC-17-5 FOIA AFR Inadequate Search; and FCC-17-110 FOIA AFR Inadequate Search.

Sincerely,

James Chelmowski

Attachments:

- 1) FCC regulation 47 CFR 0.461
- 2) FCC Elizabeth Lyle non-compliance letter dated 2-9-21 identifying FCC apparently conducted a proper FOIA search and found 97000 emails.
- 3) FCC-2021-000026 Request Details on 2-18-21 - Closed Final Disposition Fee-Related Reason
- 4) FCC-2021-000184 Appeal Details on 2-18-21 - Closed Final Disposition Closed for Other Reasons - Duplicate Request or Appeal
- 5) FCC-2021-000026 Request Details Appeal - FCC-2021-000184
- 6) FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search
- 7) FCC-17-5 FOIA AFR Inadequate Search
- 8) FCC-17-110 FOIA AFR Inadequate Search

EXHIBIT 7

From: jchelmowski@comcast.net
To: "Christopher Santini"; "Stephanie Kost"; "Michele.Ellison@fcc.gov"; "foia@fcc.gov"; Kurt Schroeder
Cc: "OIP.ComplianceInquiry@usdoj.gov"
Subject: Eight (8th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184
Date: Monday, March 8, 2021 10:43:13 AM
Attachments: [FCC-2021-000026 Request Details on 3-8-21 closed fee related reason.pdf](#)
[FCC-2021-000184 Appeal Details on 3-8-21 - Final Disposition Closed for Other Reasons - Duplicate Request or Appeal.pdf](#)
[Application For Review and FOIA Appeal FCC-2021-000026.pdf](#)
[1- 47 CFR § 0.461 - Requests for inspection of materials not routinely available for public inspection.pdf](#)
[2 - FCC Elizabeth Lyle non-compliance letter dated 2-9-21 identifying FCC apparently conducted a proper FOIA search and found 97000 emails.pdf](#)
Importance: High

Dear Mr. Santini, Ms. Kost, Ms. Ellison, and the FCC.

Please provide in writing before 5pm today March 8, 2021:

1. Whether the FCC will provide my rights to FOIA Public Liaison service or not.
2. All communications the FCC sent to National Archives and Records Administration OGIS apparently on my behalf without my consent.
3. Legal authority the FCC could file on behalf of me OGIS request without my consent.

This regarding my FOIA Public Liaison request sent 7 times before for the following four (4) items:

1. I have met all my legal obligations for FOIA and Privacy Act request FCC-2021-000026 and my Application for Review and Appeal for the request that that the FCC provided control number FCC-2021-00184 for
2. The dates the FCC will comply with their obligations by federal laws and regulations on my Application for Review and FOIA Appeal for the FOIA and Privacy Act Request FCC-2021-000026.
3. The dates the FCC will begin and complete producing all responsive records for FOIA and Privacy Act request FCC-2021-000026.
4. The exact legal authority of the FCC and FCC attorney Elizabeth Lyle's February 8, 2021 letter and the FCC demands from me.

I expect all the 4 items above in my now 8th Request for my rights for FOIA Public Liaison and/or these 3 items below ASAP and no later than 5pm today March 8, 2021:

1. Whether the FCC will provide my rights to FOIA Public Liaison service or not.
2. All communications the FCC sent to National Archives and Records Administration OGIS apparently on my behalf without my consent.
3. Legal authority the FCC could file on behalf of me OGIS request without my consent.

The FCC not providing responses to any of these 7 items in this email by 5pm today March 8, 2021 will be legally deemed the FCC no legal authority to the FCC actions regarding this Application for Review, FOIA Appeal and FOIA request to any and all District Court(s).

Sincerely

James Chelmowski

FOIA Requester

Bcc:

From: Christopher Santini <Christopher.Santini@fcc.gov>

Sent: Monday, March 8, 2021 9:21 AM

To: jchelmowski@comcast.net

Cc: Stephanie Kost <Stephanie.Kost@fcc.gov>

Subject: RE: Seventh (7th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Mr. Chelmowski,

Last week we were contacted by National Archives and Records Administration's Office of Government Information Services (OGIS) on your behalf and in relation to the items raised in your correspondence concerning FOIAs 2021-000026/2021-000184. We look forward to resolving any outstanding issues related to your FOIA requests through this intermediary.

Best,

Christopher Santini
Senior Counsel
Office of General Counsel
Federal Communications Commission
(202) 418-1724
christopher.santini@fcc.gov

From: jchelmowski@comcast.net <jchelmowski@comcast.net>
Sent: Monday, March 08, 2021 8:06 AM
To: Stephanie Kost <Stephanie.Kost@fcc.gov>; Michele Ellison <Michele.Ellison@fcc.gov>; FOIA <foia@fcc.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; ogis@nara.gov
Subject: Seventh (7th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Dear FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison.

Why am I not getting a written response for the FCC? Why is FCC FOIA Public Liaison refusing to comply with her responsibilities required by federal law? How many times do I need to request this?

What new negligent and/or fraudulent concealment scheme is going on see FOIAonline for the Appeal and Request Final Dispositions (see attached files named)

FCC-2021-000184 Appeal Details on 3-8-21 - Final Disposition Closed for Other Reasons - Duplicate Request or Appeal

FCC-2021-000026 Request Details on 3-8-21 closed fee related reason

The FCC know these are both FASLE Statements on the FOIA Request, FOIA Appeal and Application for Review to the Full Commission Final Dispositions!

The FCC knows that on February 9, 2021 the **FCC and FCC Elizabeth Lyle imposed a 30-day deadline from me to respond or apparently the FCC legal authority to deny my rights pursuant Federal Laws**. The FCC refuses to provide response from my 5 emails to the FOIA Public Liaison and 3 emails to the FCC and FCC Christopher Santini the person I must send my response to within 30 days from February 9, 2021.

The FCC provided NO LEGAL AUTHORITY for this deadline (apparent threat) or for the Elizabeth Lyle February 9, 2021 letter to date.

This is the 6th request for my rights pursuant federal law 5 USC 552 (I) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. **FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

The FCC, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison knows the 30-day deadline imposed by the FCC in FCC attorney Elizabeth Lyle February 9, 2021 letter (attached). However the FCC, FCC Christopher Santini, FCC Elizabeth Lyle, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison refuse to respond in writing that my now 6 requests for FCC FOIA Public Liaison Requests and 3 emails to the FCC and FCC Christopher Santini.

Why is FCC FOIA Public Liaison Stephanie Kost, and Michele Ellison responsible for the FCC FOIA and FCC FOIA Public Liaison to assisting in reducing delays, increasing transparency and understanding the status of my requests, appeal and application for review. Plus, FOIA Public Liaison is responsible in assisting the resolution in disputes which includes the following:

1. I have met all my legal obligations for FOIA and Privacy Act request FCC-2021-00026 and my Application for Review and Appeal for the request that that the FCC provided control number FCC-2021-00184 for
2. The dates the FCC will comply with their obligations by federal laws and regulations on my Application for Review and FOIA Appeal for the FOIA and Privacy Act Request FCC-2021-000026.
3. The dates the FCC will begin and complete producing all responsive records for FOIA and Privacy Act request FCC-2021-000026.
4. The exact legal authority of the FCC and FCC attorney Elizabeth Lyle's February 8, 2021 letter and the FCC demands from me.

As the FCC knows, the FCC has a history of providing apparently false, misleading, misrepresented ,and/or deceitful statements regarding me not complying with the FOIA and/or FCC required deadlines even to District Court Judges including Honorable Judges Sharon Johnson Coleman and James Boasberg.

As the FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison knows the FCC with apparently legal authority imposed a 30-day deadline on me which ends next week.

Therefore, I am forced to try to obtain my legal rights to possibly send this email up to twice a day to prove to the District Court when if ever the FCC will comply with federal laws and regulations including but not limited to 5 USC 552(I) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

I hope I am not forced to resend this email possibly twice a day to document that I meet all my legal obligations and finding out when the FCC will meet all the FCC legal obligations for my FOIA & Privacy Act Request FCC-2021-000026, Application for Review for this request, and FOIA Appeal for this request.

No one should be required to email the FOIA Public Liaison and Chief FOIA Officer six (6) times or more to get his rights to federal laws and regulations including **but not limited to 5 USC 552(I) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

Sincerely

James Chelmowski

FOIA and Privacy Act Requester

From: jchelmowski@comcast.net <jchelmowski@comcast.net>
Sent: Friday, March 5, 2021 9:57 AM
To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'Michele.Ellison@fcc.gov' <Michele.Ellison@fcc.gov>
Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>
Subject: Sixth (6th) Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184
Importance: High

Dear FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison.

The FCC knows that on February 9, 2021 the **FCC and FCC Elizabeth Lyle imposed a 30-day deadline from me to respond or apparently the FCC legal authority to deny my rights pursuant Federal Laws**. The FCC refuses to provide response from my 5 emails to the FOIA Public Liaison and 3 emails to the FCC and FCC Christopher Santini the person I must send my response to within 30 days from February 9, 2021.

The FCC provided NO LEGAL AUTHORITY for this deadline (apparent threat) or for the Elizabeth Lyle February 9, 2021 letter to date.

This is the 6th request for my rights pursuant federal law 5 USC 552 (I) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. **FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

The FCC, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison knows the 30-day deadline imposed by the FCC in FCC attorney Elizabeth Lyle February 9, 2021 letter (attached). However the FCC, FCC Christopher Santini, FCC Elizabeth Lyle, FCC FOIA Public Liaison Stephanie Kost and FCC Chief FOIA Officer Michele Ellison refuse to respond in writing that my now 6 requests for FCC FOIA Public Liaison Requests and 3 emails to the FCC and FCC Christopher Santini.

Why is FCC FOIA Public Liaison Stephanie Kost, and Michele Ellison responsible for the FCC FOIA and FCC FOIA Public Liaison to assisting in reducing delays, increasing transparency and understanding the status of my requests, appeal and application for review. Plus, FOIA Public Liaison is responsible in assisting the resolution in disputes which includes the following:

1. I have met all my legal obligations for FOIA and Privacy Act request FCC-2021-00026 and my Application for Review and Appeal for the request that that the FCC provided control number FCC-2021-00184 for
2. The dates the FCC will comply with their obligations by federal laws and regulations on my Application for Review and FOIA Appeal for the FOIA and Privacy Act Request FCC-2021-000026.
3. The dates the FCC will begin and complete producing all responsive records for FOIA and Privacy Act request FCC-2021-000026.
4. The exact legal authority of the FCC and FCC attorney Elizabeth Lyle's February 8, 2021 letter and the FCC demands from me.

As the FCC knows, the FCC has a history of providing apparently false, misleading, misrepresented, and/or deceitful statements regarding me not complying with the FOIA and/or FCC required deadlines even to District Court Judges including Honorable Judges Sharon Johnson Coleman and James Boasberg.

As the FCC, FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer Michele Ellison knows the FCC with apparently legal authority imposed a 30-day deadline on me which ends next week. **Therefore, I am forced to try to obtain my legal rights to possibly send this email up to twice a**

day to prove to the District Court when if ever the FCC will comply with federal laws and regulations including but not limited to 5 USC 552(I) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.

I hope I am not forced to resend this email possibly twice a day to document that I meet all my legal obligations and finding out when the FCC will meet all the FCC legal obligations for my FOIA & Privacy Act Request FCC-2021-000026, Application for Review for this request, and FOIA Appeal for this request.

No one should be required to email the FOIA Public Liaison and Chief FOIA Officer six (6) times or more to get his rights to federal laws and regulations including **but not limited to 5 USC 552(I) FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.**

Sincerely

James Chelmowski

FOIA and Privacy Act Requester

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Thursday, March 4, 2021 8:57 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'Michele.Ellison@fcc.gov' <Michele.Ellison@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'privacy@fcc.gov' <privacy@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>

Subject: Fifth Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Importance: High

Dear FCC and FCC's FOIA Public Liaison Stephanie Kost, P. Michele Ellison, FCC Chief FOIA Officer and General Counsel, Christopher Santini, FCC Chairman and Commissioners.

FIFTH REQUEST! The FCC and FCC FOIA Public Liaison Stephanie Kost, FCC Commissioner Jessica Rosenworcel, and Commissioners Brendan Carr, Geoffrey Starks, Nathen Simington, etc. are apparently denying my rights.

The FCC, Chairman, Commissioners, and staff are either negligently or fraudulently concealing these responsive records regarding my and refusing to comply with their mandatory duties required by federal law, regulations, directives, policies, and procedures.

When will the FCC comply with Federal laws regarding my rights? Do I need to send this Official FOIA Public Liaison request over 10 times before the FCC will comply with federal law?

Of course, this email and the other emails to Stephanie Kost, Christopher Santini, Michele Ellison,

Jessica Rosenworcel, Brendan Carr, Geoffrey Starks, and Nathan Simington state for as a fact I want all my responsive records for all my FOIA and Privacy Act requests.

The FCC new concealment scheme of the FCC apparently requiring me additional responses from the FCC after the FCC provided letters after my Appeals and Responses asking me to reply which I have and the FCC cannot use any new or old concealment scheme to deny my rights to the FCC federal records by federal laws FOIA 5 USC 552 and Privacy Act 5 USC 552a.

If I don't receive the FOIA Public Liaison response and now this my Fourth Request for FCC to comply with Federal Laws and my rights. This email is also being sent to the OGIS and DOJ. The FCC, Commission (FCC Chairman and Commissioners), and FCC FOIA Public Liaison response or no response will be documented with the OGIS and DOJ on complying with federal laws, regulations, policies, and procedures.

Since, the FCC refused to provide my rights again. Please provide the FCC FOIA Public Liaison response in **a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.** So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1) Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before March 4, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Tuesday, March 2, 2021 8:51 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'Michele.Ellison@fcc.gov' <Michele.Ellison@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'privacy@fcc.gov'

<privacy@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>

Subject: Fourth Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000184

Importance: High

Dear FCC and FCC's FOIA Public Liaison Stephanie Kost, P. Michele Ellison, FCC Chief FOIA Officer and General Counsel, Christopher Santini, FCC Chairman and Commissioners.

When will the FCC comply with Federal laws regarding my rights? Do I need to send this Official FOIA Public Liaison request over 10 times before the FCC will comply with federal law?

Of course, this email and the other emails to Stephanie Kost, Christopher Santini, Michele Ellison, Jessica Rosenworcel, Brendan Carr, Geoffrey Starks, and Nathan Simington state for as a fact I want all my responsive records for all my FOIA and Privacy Act requests.

The FCC new concealment scheme of the FCC apparently requiring me additional responses from the FCC after the FCC provided letters after my Appeals and Responses asking me to reply which I have and the FCC cannot use any new or old concealment scheme to deny my rights to the FCC federal records by federal laws FOIA 5 USC 552 and Privacy Act 5 USC 552a.

If I don't receive the FOIA Public Liaison response and now this my Fourth Request for FCC to comply with Federal Laws and my rights. This email is also being sent to the OGIS and DOJ. The FCC, Commission (FCC Chairman and Commissioners), and FCC FOIA Public Liaison response or no response will be documented with the OGIS and DOJ on complying with federal laws, regulations, policies, and procedures.

Since, the FCC refused to provide my rights again. Please provide the FCC FOIA Public Liaison response in **a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.** So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1. Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before March 4, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 5pm March 4, 2021 with the dates the FCC will comply with the federal laws, regulations,

directives, policies, and procedures.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Friday, February 26, 2021 8:15 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; foia@fcc.gov; privacy@fcc.gov; ogis@nara.gov; Jessica.Rosenworcel@fcc.gov; Brendan.Carr@fcc.gov; Geoffrey.Starks@fcc.gov; Nathan.Simington@fcc.gov; christopher.santini@fcc.gov

Cc: OIP.ComplianceInquiry@usdoj.gov

Subject: Third Request Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Importance: High

Dear FCC and FCC's FOIA Public Liaison Stephanie Kost,

If I don't receive the FOIA Public Liaison response and now this my Third Request for FCC to comply with Federal Laws and my rights. This email is also being sent to the OGIS and DOJ. The FCC, Commission (FCC Chairman and Commissioners), and FCC FOIA Public Liaison response or no response will be documented with the OGIS and DOJ on complying with federal laws, regulations, policies, and procedures.

Please provide the FCC FOIA Public Liaison response in **a written signed letter no later than 5pm February 26, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.** So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1. Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before February 25, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 5pm February 26, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>
Sent: Tuesday, February 23, 2021 6:35 PM
To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>; 'privacy@fcc.gov' <privacy@fcc.gov>
Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'ogis@nara.gov' <ogis@nara.gov>
Subject: FW: Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186
Importance: High

Dear FCC and FCC's FOIA Public Liaison,

If I don't receive the FOIA Public Liaison response with the dates requested by 10:00am February 24, 2021, I will be filing a request for OGIS mediation.

Please provide the FCC FOIA Public Liaison response in a written signed letter no later than 10:00am February 24, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures. So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS.

Here is the summary of the attached FOIA Public Liaison mediation request.

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

- 1. Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
- 2) Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before February 25, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Therefore, please provide the FCC FOIA Public Liaison response in a written signed letter no later than 10:00am February 24, 2021 with the dates the FCC will comply with the federal laws, regulations, directives, policies, and procedures. So, we don't need to require OGIS mediation because the FCC will not provide FOIA Public Liaison requirements. Since, you refused to respond today, you leave me no choice to take the next step involving the OGIS

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester.

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Sunday, February 21, 2021 11:32 AM

To: 'Stephanie Kost' <Stephanie.Kost@fcc.gov>; 'foia@fcc.gov' <foia@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>

Subject: Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Importance: High

Ms. Stephanie Kost and the FCC

Please all parties provide written receipt confirming you received and read this email since the FCC has denied receipt of my emails in the past.

Please find the attached Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186 for records regarding the Requester. (i.e. First Party Request)

The FCC needs to provide dates I requested last week by February 23, 2021. If the FCC needs more time to provide these dates the FCC could provide an interm writing response by February 23, 2021 with the dates and why the FCC needs more time to provide dates on past due FCC mandatory duties.

Thank you,

James Chelmowski

FOIA and Privacy Act requesters.

See request below in this email

Stephanie Kost, FCC FOIA Public Liaison & the FCC
Federal Communication Commission

Sent by email to with Microsoft Outlook Read Confirmation

February 21, 2021,

RE: Formal Official Request for FCC FOIA Public Liaison for FOIA/PA Request FCC-2021-000026 and FOIA Application for Review and FOIA Appeal # FCC-2021-000186

Dear Ms. Kost FCC's FOIA Public Liaison and the FCC:

This FOIA Public Liaison Request is for the FCC provided the dates the FCC will comply with their duties on FOIA Application for Review and FOIA Appeal with control number FCC-2021-000184 dated January 14, 2021 and associated FOIA request FCC-2021-000026 dated October 15, 2020.

Please provide by February 23, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

1. **Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
2. **Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

As the FCC knows the FCC missed the FOIA Appeal/Application for Review deadline.

Please provide the FOIA response letter for the attached FOIA and Privacy Request Appeal and Application for Review for request control number FCC-2021-00026 before February 25, 2021 with the dates the FCC will comply with their mandatory duties pursuant to federal laws, regulations, directives, policies, and procedures.

Since, the FCC seems to believe the federal laws and regulations, policies, and procedures have an exclusion for anyone named James Chelmowski. So, I will summarize what the FCC is required to do per my rights and please provide the dates the FCC will comply with my rights.

1. **Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.**
2. **Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced to me the FOIA/PA requester.**

Again, I need the dates the FCC will comply with to federal laws, regulations, directives, policies, and procedures for Application for Review and FOIA Appeal control number FCC 2021-000184 see attached for the Application for Review and FOIA Appeal as the FCC does for requesters not named Chelmowski.

I need the response with these dates by February 23, 2021.

Sincerely,

James Chelmowski

FOIA and Privacy Act Requester

Attachments

From: jchelmowski@comcast.net <jchelmowski@comcast.net>

Sent: Thursday, February 18, 2021 1:53 PM

To: 'foia@fcc.gov' <foia@fcc.gov>; 'elizabeth.lyle@fcc.gov' <elizabeth.lyle@fcc.gov>; 'Jessica.Rosenworcel@fcc.gov' <Jessica.Rosenworcel@fcc.gov>; 'Brendan.Carr@fcc.gov' <Brendan.Carr@fcc.gov>; 'Geoffrey.Starks@fcc.gov' <Geoffrey.Starks@fcc.gov>; 'Nathan.Simington@fcc.gov' <Nathan.Simington@fcc.gov>; 'christopher.santini@fcc.gov' <christopher.santini@fcc.gov>

Cc: 'OIP.ComplianceInquiry@usdoj.gov' <OIP.ComplianceInquiry@usdoj.gov>

Subject: Need Past due FOIA Appeal Commission Decision for Request 2021-000026 - Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision

Importance: High

Dear FCC, FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington.

For the FCC and DOJ OIP reference attached are FCC FOIA Appeal and Application For Review when the FCC Chairman and Commissioners decided to comply with their mandatory duties for Requesters not named James Chelmowski. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents -

Inadequate Search; FCC-17-5 FOIA AFR Inadequate Search; and FCC-17-110 FOIA AFR Inadequate Search.

Please provide by the end of the week February 19, 2021 with either the documents or the dates the FCC will comply with my rights in federal law, regulations, policy, and procedures for the following two (2) items:

1. Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.

As the FCC knows,

- a. The FCC FOIA Appeal and Application for Review Decision (ie FCC FOIA Appeal Decision with the right to judicial review) on my FOIA Appeal and Application for Review arguments is now past due.
- b. The February 9, 2021 letter by FCC attorney Elizabeth Lyle did not comply with federal law, regulation, policy, and procedure. She did confirm the FCC FOIA response actions were not valid. She confirmed the FCC finally made a proper FOIA search and located 97,000 emails with my name. However, did not meet the FOIA federal law, regulations, directive, policy, and procedures requirements.

FOIA Federal Law:

5 USC 552(a)(6)(A)(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

5 USC 552(a)(4)(A)(viii)(I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency has failed to comply with any time limit under paragraph (6).

FOIA FCC Regulations:

The FCC is required pursuant 47 CFR 0.461(m) - Staff orders and letters ruling on requests for inspection are signed by the official (or officials) who give final approval of their contents.

Decisions of the Commission ruling on applications for review will set forth the names of the Commissioners participating in the decision. (emphasis added)

2. Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced.

Since, the FCC seems to believe the federal laws and regulations, policies, and procedures have an exclusion for anyone named James Chelmowski. So, I will summarize what the FCC is required to do per my rights and please provide the dates the FCC will comply with my rights.

1. Please provide the date the FCC Chairman Jessica Rosenworcel, and Commissioner Brendan Carr, Geoffrey Starks, and Nathan Simington will provide the Application for Review decision pursuant to my rights in federal law, regulations, policy, and procedures.
2. Please provide the date the FCC will begin producing the over 97,000 responsive emails and estimated date all responsive emails will be produced.

Please respond with the date to the above 2 items by February 22, 2021.

For the FCC and DOJ OIP reference attached are FCC FOIA Appeal and Application For Review when the FCC Chairman and Commissioners decided to comply with their mandatory duties for Requesters not named James Chelmowski. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search; FCC-17-5 FOIA AFR Inadequate Search; and FCC-17-110 FOIA AFR Inadequate Search.

Sincerely,

James Chelmowski

Attachments:

1. FCC regulation 47 CFR 0.461
2. FCC Elizabeth Lyle non-compliance letter dated 2-9-21 identifying FCC apparently conducted a proper FOIA search and found 97000 emails.
3. FCC-2021-000026 Request Details on 2-18-21 - Closed Final Disposition Fee-Related Reason
4. FCC-2021-000184 Appeal Details on 2-18-21 - Closed Final Disposition Closed for Other Reasons - Duplicate Request or Appeal
5. FCC-2021-000026 Request Details Appeal - FCC-2021-000184
6. FCC-18-154 FOIA AFR Decision for Arguments Withheld documents - Inadequate Search
7. FCC-17-5 FOIA AFR Inadequate Search
8. FCC-17-110 FOIA AFR Inadequate Search

EXHIBIT 8

FOIA and Privacy Act Request FCC-2021-000341

Date of Request: March 23, 2021

Requester: James Chelmowski

FCC FOIA Control Number: FCC-2021-000341

Request for the following:

This is an FOIA and Privacy Act request pursuant to 5 USC 552 and 5 USC 552a request for records regarding the Request for the following:

Provide all the FCC FOIA consultants and referrals to or from the FCC regarding this Requester James Chelmowski provide all communications, the FOIAonline records, and control numbers. These referrals and consultants including but not limited ones documented from other agencies to the FCC include NARA-NGC-2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ-2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...

The FCC is required to document and have control numbers for each incoming FOIA consultant and referral requests from other agencies. Other agencies are required to document and have control numbers for each outgoing FOIA consultant and referral requests from the FCC.

FCC policy and procedures state:

Procedures Upon Receipt of a Referral:

When the FCC receives a referral of documents from another agency, the following steps should be taken to ensure efficiency and accountability.

- (1) Assign the FCC's FOIA tracking number to the referral so that it can be readily tracked.
- (2) Send the FOIA requester an acknowledgment of receipt of the referral and identify the agency that made the referral, subject to the exceptions described below for coordinating a response.
- (3) Include in the acknowledgement both the FCC's FOIA tracking number and the original FOIA request tracking number assigned by the agency making the referral so that the requester can readily link the referred records to his or her original request.
- (4) Provide the FOIA requester with a telephone line or internet service contact information that can be used to obtain information about the status of the referred records.
- (5) Track the referral just as you would an incoming request and include it in the FCC's Annual FOIA Report.
- (6) Always include the original request number from the referring agency as well as our own referral number in any correspondence with the requester regarding the referred documents.
- (7) The referring agency should receive a copy of the response to the requester as appropriate.

Procedures Upon Receipt of a Consultation:

Whenever the FCC receives a consultation request from another agency, it should be mindful of the need to respond as promptly as practicable to the consultation to facilitate the other agency's ability to finalize its response to the request. To ensure greater accountability for the handling of consultations, the Department of Justice created a requirement that agencies include data in their Annual FOIA Reports each year regarding any consultations that they receive. Agencies must report in Section XII of their Annual FOIA Reports the number of consultations received, the number processed, and the number of consultations remaining pending at the end of the fiscal year, including the dates the ten oldest pending consults were received and the number of days those ten oldest consultations have been pending.

Upon receipt of a consultation, agencies should take the following steps:

1. The referring agency should receive a copy of the response to the requester as appropriate.

2. Assign the consultation a tracking number to facilitate its handling and inclusion in the FCC Annual FOIA Report.
3. Promptly provide the FCC's views on the disclosability of the contents of the records to the agency seeking the consultation. Utilize the most time- efficient method for doing so.
4. Continuously assess the need and frequency of the consultations so that the FCC can identify ways to streamline or eliminate the need for certain consultations.

Expedition needed.

The Requester will be making these responsive records public records to inform the Public on how the FCC who regulates 1/6 of the economy should be transparent and show its work on how the FCC is performing their mandatory duties pursuant to federal laws, directives, policies, and procedures.

This response will be presented to the Public because:

The former FCC Chairman and current FCC Chairwoman knows the FCC is not transparent in FOIA.

The current Chairwoman Jessica Rosenworcel stated in FCC 18-156 order the following:

“What is the Federal Communications Commission hiding?”

“Something here is rotten—and it’s time for the FCC to come clean.”

“It is hiding what it knows about the fraud in our record and it is preventing an honest account of its many problems from seeing the light of day.”

The former FCC Chairman Ajit Pai stated in FCC 18-156 order the following:

“[T]hat an agency that regulates one-sixth of the economy should be transparent and ‘show its work’”

“In the nearly half-decade preceding this Administration, there arose many, many chances to join what should have been a bipartisan effort to promote openness and transparency at the FCC.”

The NARA produced a similar request for expediated in 2017 as an expedited request control # NARA-NGC-2017-000437. There should be no reason the NARA will not grant this Expediated request see the same expediated request as the one the NARA granted on April 7, 2017. This request falls in both categories #2 and #3 because it is urgent to inform the public about an actual or alleged Federal government activity. and a reasonable expectation of an imminent loss of a substantial due process. This information could expose a cover-up scheme in a delayed FOIA administrative appeal needed in an FOIA lawsuit. That a District court judge and the PUBLIC needs to be aware of immediately and any delay would be an imminent loss of a substantial due process in the FOIA lawsuit proceeding.

EXHIBIT 9

jchelmowski@comcast.net

From: Stephanie Kost <Stephanie.Kost@fcc.gov>
Sent: Friday, April 23, 2021 6:28 AM
To: jchelmowski@comcast.net
Subject: RE: Official FOIA Public Liaison Request for Past Due FOIA/PA Request FCC-2021-000341

Mr. Chelmowski,

Staff is in the final stages of their review process, and we anticipate that you will be provided with a response in the near future.

Stephanie Kost
FCC FOIA Public Liaison
Federal Communications Commission
Office of the Managing Director
Performance Evaluation and Records Management
45 L St., NE Washington, DC 20554
Telephone number: 202-418-1379

From: jchelmowski@comcast.net <jchelmowski@comcast.net>
Sent: Thursday, April 22, 2021 2:42 AM
To: Stephanie Kost <Stephanie.Kost@fcc.gov>; Michele Ellison <Michele.Ellison@fcc.gov>; FOIA <foia@fcc.gov>; FCC Privacy <privacy@fcc.gov>; Leslie Smith <Leslie.Smith@fcc.gov>
Cc: OIP.ComplianceInquiry@usdoj.gov; David Hunt <David.Hunt@fcc.gov>
Subject: Official FOIA Public Liaison Request for Past Due FOIA/PA Request FCC-2021-000341
Importance: High

Dear FCC, and FCC FOIA Public Liaison Stephanie Kost, and FCC Chief FOIA Officer P. Michele Ellison,

This is a FOIA Public Liaison Request for the production of the past due FOIA and Privacy Act Request pursuant to federal law including but not limited to 5 USC 552(I) for the following:

- 1) The FCC has missed the deadline please have all the responsive records produced by noon April 22, 2021.
- 2) I need a status update by 11am on April 22, 2021, pursuant my FOIA Public Liaison rights 5 USC 552(I) for this Request:

This is an FOIA and Privacy Act request pursuant to 5 USC 552 and 5 USC 552a request for records regarding the Request for the following:

Provide all the FCC FOIA consultants and referrals to or from the FCC regarding this Requester James Chelmowski provide all communications, the FOIAonline records, and control numbers. These referrals and consultants including but not limited ones documented from other agencies to the FCC include NARA-NGC-2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ-2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...

The FCC is required to document and have control numbers for each incoming FOIA consultant and referral requests from other agencies. Other agencies are required to document and have control numbers for each outgoing FOIA consultant and referral requests from the FCC.

FCC policy and procedures state:

Procedures Upon Receipt of a Referral:

When the FCC receives a referral of documents from another agency, the following steps should be taken to ensure efficiency and accountability.

- (1) Assign the FCC's FOIA tracking number to the referral so that it can be readily tracked.
- (2) Send the FOIA requester an acknowledgment of receipt of the referral and identify the agency that made the referral, subject to the exceptions described below for coordinating a response.
- (3) Include in the acknowledgement both the FCC's FOIA tracking number and the original FOIA request tracking number assigned by the agency making the referral so that the requester can readily link the referred records to his or her original request.
- (4) Provide the FOIA requester with a telephone line or internet service contact information that can be used to obtain information about the status of the referred records.
- (5) Track the referral just as you would an incoming request and include it in the FCC's Annual FOIA Report.
- (6) Always include the original request number from the referring agency as well as our own referral number in any correspondence with the requester regarding the referred documents.
- (7) The referring agency should receive a copy of the response to the requester as appropriate.

Procedures Upon Receipt of a Consultation:

Whenever the FCC receives a consultation request from another agency, it should be mindful of the need to respond as promptly as practicable to the consultation to facilitate the other agency's ability to finalize its response to the request. To ensure greater accountability for the handling of consultations, the Department of Justice created a requirement that agencies include data in their Annual FOIA Reports each year regarding any consultations that they receive. Agencies must report in Section XII of their Annual FOIA Reports the number of consultations received, the number processed, and the number of consultations remaining pending at the end of the fiscal year, including the dates the ten oldest pending consults were received and the number of days those ten oldest consultations have been pending.

Upon receipt of a consultation, agencies should take the following steps:

1. The referring agency should receive a copy of the response to the requester as appropriate.
2. Assign the consultation a tracking number to facilitate its handling and inclusion in the FCC Annual FOIA Report.
3. Promptly provide the FCC's views on the disclosability of the contents of the records to the agency seeking the consultation. Utilize the most time- efficient method for doing so.
4. Continuously assess the need and frequency of the consultations so that the FCC can identify ways to streamline or eliminate the need for certain consultations.

Sincerely,

James Chelmowski
FOIA and Privacy Act Requester

EXHIBIT 10



Federal Communications Commission
Washington, D.C. 20554

May 20, 2021

VIA ELECTRONIC MAIL

James Chelmowski
6650 N. Northwest Hwy #300
Chicago, IL 60631
jchelmowski@comcast.net

Re: FOIA Control No. 2021-000341

Mr. Chelmowski:

This letter responds to your Freedom of Information Act (FOIA) request for, “all the FCC FOIA consultants and referrals to or from the FCC regarding this [r]equester James Chelmowski provide all communications, the FOIAonline records, and control numbers. These referrals and consultants [sic] including but not limited ones documented from other agencies to the FCC include NARA-NGC-2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ-2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...”¹ Your request has been assigned FOIA Control No. 2021-000341.

The Office of the Managing Director conducted a search and located four pages responsive to your request. Some material on the pages produced has been redacted due to the reasons discussed below. Records responsive to your request were withheld or redacted under FOIA Exemption 5.² Exemption 5 protects certain inter-agency and intra-agency records that are normally considered privileged in the civil discovery context. Exemption 5 encompasses a deliberative process privilege intended to “prevent injury to the quality of agency decisions.”³ To fall within the scope of this privilege the agency records must be both predecisional and deliberative.⁴ Predecisional records must have been “prepared in order to assist an agency decision maker in arriving at his decision.”⁵ Deliberative records must be such that their disclosure “would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s

¹ We note you have modified your request, among other things. to include an additional request, EPA-2020-006388.

² 5 U.S.C. § 552(b)(5).

³ *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 151 (1975).

⁴ *Id.* at 151-52.

⁵ *Formaldehyde Inst. v. Dep’t of Health and Human Servs.*, 889 F.2d 1118, 1122 (D.C. Cir. 1989); *see also Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980) (“In deciding whether a document should be protected by the privilege we look to whether the document is . . . generated before the adoption of an agency policy and whether . . . it reflects the give-and-take of the consultative process. The exemption thus covers recommendations, draft documents, proposals, suggestions, and other subjective documents . . .”).

ability to perform its functions.”⁶ The withheld records consist of deliberative communications between the Federal Communications Commission and National Archives and Records Administration (NARA) employees and management in connection with a FOIA request being processed by NARA.

We are required by both the FOIA and the Commission’s own rules to charge requesters certain fees associated with the costs of searching for, reviewing, and duplicating the sought after information.⁷ To calculate the appropriate fee, requesters are classified as: (1) commercial use requesters; (2) educational requesters, non-commercial scientific organizations, or representatives of the news media; or (3) all other requesters.⁸

Pursuant to section 0.466(a)(8) of the Commission’s rules, you have been classified for fee purposes under category (3) as an “all other requester.”⁹ As an “all other requester,” the Commission assesses charges to recover the full, reasonable direct cost of searching for and reproducing records that are responsive to the request; however, you are entitled to be furnished with the first 100 pages of reproduction and the first two hours of search time without charge under section 0.470(a)(3)(i) of the Commission’s rules.¹⁰ The production in response to your request required less than two hours of search time, and was provided in electronic form. Therefore, you will not be charged any fees.

If you consider this to be a denial of your FOIA request, you may seek review by filing an application for review with the Office of General Counsel. An application for review must be *received* by the Commission within 90 calendar days of the date of this letter.¹¹ You may file an application for review by mailing the application to Federal Communications Commission, Office of General Counsel, 45 L Street NE, Washington, DC 20554, or you may file your application for review electronically by e-mailing it to FOIA-Appeal@fcc.gov. Please caption the envelope (or subject line, if via e-mail) and the application itself as “Review of Freedom of Information Action.”

If you would like to discuss this response before filing an application for review to attempt to resolve your dispute without going through the appeals process, you may contact the Commission’s FOIA Public Liaison for assistance at:

FOIA Public Liaison
Federal Communications Commission
Office of the Managing Director
Performance Evaluation and Records Management
45 L Street NE, Washington, DC 20554

⁶ *Formaldehyde Inst.*, 889 F.2d at 1122 (quoting *Dudman Commc’ns Corp. v. Dep’t of the Air Force*, 815 F.2d 1565, 1568 (D.C. Cir. 1987)).

⁷ See 5 U.S.C. § 552(a)(4)(A); 47 CFR § 0.470.

⁸ 47 CFR § 0.470.

⁹ 47 CFR § 0.466(a)(8).

¹⁰ 47 CFR § 0.470(a)(3)(i).

¹¹ 47 CFR §§ 0.461(j), 1.115; 47 CFR § 1.7 (documents are considered filed with the Commission upon their receipt at the location designated by the Commission).

202-418-0440

FOIA-Public-Liaison@fcc.gov

If you are unable to resolve your FOIA dispute through the Commission's FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
202-741-5770
877-684-6448
ogis@nara.gov
<https://www.archives.gov/ogis>

Sincerely,

Vanessa Lamb^{sk}

Vanessa Lamb
Associate Managing Director
Office of the Managing Director
Performance Evaluation and Records
Management

Enclosures

EXHIBIT 11

James Chelmowski
6650 N Northwest Hwy
Chicago, IL 60631

July 19, 2021

Federal Communications Commission Office of General Counsel
445 12th St SW
Washington, DC 20554

RE: Review of Freedom of Information Action for FCC control No. 2021-000341

In Matter of James Chelmowski On Request for Inspection of Records Control Number 2021-000341 (FCC will furnish the FCC file number and this Commissioners Memorandum Opinion and Order on or before August 16, 2021, in its Required Determination)

Dear Chairwoman Rosenworcel and Commissioners Carr, Starks, and Simington.

I, James Chelmowski ("Requestor"), am writing to appeal to Federal Communication Commission's ("FCC") response to Freedom of Information Act ("FOIA") and Privacy Act ("PA") request FCC 2021-000314 dated through FOIAonline on March 23, 2020 ("FOIA/PA Request"), expediting was denied on March 30, 2021, response due date of April 21, 2021 and May 20, 2021 ("FOIA Request Response"). This FOIA Appeal is also pursuant to FCC regulations and policy an FOIA Application for Review for a full Commissioner vote with the names of the Chairman and Commissioners names involved with this FOIA/PA Appeal/Application for Review "Commissioners Memorandum Opinion and Order."¹

The Requester WILL NOT CONSENT to any informal resolution² for this Application for Review to the Full Commission/FOIA/PA Appeal. As the Commission knows, note to paragraphs (i) & (j) 47 CFR 0.461³ requires the **Requester Consent** to informally resolve any Appeal/Application for Review ("Appeal/AFR") issues.

I. The FOIA/PA Request

The FOIA request was filed on March 23, 2021, which included the following:

This is an FOIA and Privacy Act request pursuant to 5 USC 552 and 5 USC 552a request for records regarding the Request for the following:

Provide all the FCC FOIA consultants and referrals to or from the FCC regarding this Requester James Chelmowski provide all communications, the FOIAonline records, and control numbers. These referrals and consultants including but not limited ones documented from other agencies to the FCC include NARA-NGC-2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...

The FCC is required to document and have control numbers for each incoming FOIA consultant and referral

requests from other agencies. Other agencies are required to document and have control numbers for each outgoing FOIA consultant and referral requests from the FCC.

FCC policy and procedures state:

Procedures Upon Receipt of a Referral:

When the FCC receives a referral of documents from another agency, the following steps should be taken to ensure efficiency and accountability.

- (1) Assign the FCC's FOIA tracking number to the referral so that it can be readily tracked.
- (2) Send the FOIA requester an acknowledgment of receipt of the referral and identify the agency that made the referral, subject to the exceptions described below for coordinating a response.
- (3) Include in the acknowledgement both the FCC's FOIA tracking number and the original FOIA request tracking number assigned by the agency making the referral so that the requester can readily link the referred records to his or her original request.
- (4) Provide the FOIA requester with a telephone line or internet service contact information that can be used to obtain information about the status of the referred records.
- (5) Track the referral just as you would an incoming request and include it in the FCC's Annual FOIA Report.
- (6) Always include the original request number from the referring agency as well as our own referral number in any correspondence with the requester regarding the referred documents.
- (7) The referring agency should receive a copy of the response to the requester as appropriate.

Procedures Upon Receipt of a Consultation:

Whenever the FCC receives a consultation request from another agency, it should be mindful of the need to respond as promptly as practicable to the consultation to facilitate the other agency's ability to finalize its response to the request. To ensure greater accountability for the handling of consultations, the Department of Justice created a requirement that agencies include data in their Annual FOIA Reports each year regarding any consultations that they receive. Agencies must report in Section XII of their Annual FOIA Reports the number of consultations received, the number processed, and the number of consultations remaining pending at the end of the fiscal year, including the dates the ten oldest pending consults were received and the number of days those ten oldest consultations have been pending.

Upon receipt of a consultation, agencies should take the following steps:

1. The referring agency should receive a copy of the response to the requester as appropriate.
2. Assign the consultation a tracking number to facilitate its handling and inclusion in the FCC Annual FOIA Report.
3. Promptly provide the FCC's views on the disclosability of the contents of the records to the agency seeking the consultation. Utilize the most time- efficient method for doing so.
4. Continuously assess the need and frequency of the consultations so that the FCC can identify ways to streamline or eliminate the need for certain consultations.

Expedition needed.

The Requester will be making these responsive records public records to inform the Public on how the FCC who regulates 1/6 of the economy should be transparent and show its work on how the FCC is performing their mandatory duties pursuant to federal laws, directives, policies, and procedures.

This response will be presented to the Public because:

The former FCC Chairman and current FCC Chairwoman knows the FCC is not transparent in FOIA.

The current Chairwoman Jessica Rosenworcel stated in FCC 18-156 order the following:

“What is the Federal Communications Commission hiding?”

“Something here is rotten—and it’s time for the FCC to come clean.”

“It is hiding what it knows about the fraud in our record and it is preventing an honest account of its many problems from seeing the light of day.”

The former FCC Chairman Ajit Pai stated in FCC 18-156 order the following:

“[T]hat an agency that regulates one-sixth of the economy should be transparent and ‘show its work’”

“In the nearly half-decade preceding this Administration, there arose many, many chances to join what should have been a bipartisan effort to promote openness and transparency at the FCC.”

The NARA produced a similar request for expediated in 2017 as an expedited request control # NARA-NGC-2017-000437.

There should be no reason the NARA will not grant this Expediated request see the same expediated request as the one the NARA granted on April 7, 2017. This request falls in both categories #2 and #3 because it is urgent to inform the public about an actual or alleged Federal government activity. and a reasonable expectation of an imminent loss of a substantial due process. This information could expose a cover-up scheme in a delayed FOIA administrative appeal needed in an FOIA lawsuit. That a District court judge and the PUBLIC needs to be aware of immediately and any delay would be an imminent loss of a substantial due process in the FOIA lawsuit proceeding.

II. FCC Denied Expediating

The FCC denied the Expediating on March 30, 2021.

III. FCC Due Date For this Request

The FCC refused to comply with the FOIA deadline. The FCC two page response and four (4) pages of random non-responsive emails could have been produced on April 21, 2021 deadline.

The FCC, Chairwoman, Commissioners, General Counsel, attorneys and staff negligently and/or fraudulently concealed this response and responsive records so Chelmowski would not have access of material facts needed in Chelmowski’s filings to Honorable Judge James Boasberg on April 22, 2021 in DDC 1:17cv1394 *Chelmowski v USA*, FCC, EPA and NARA.

IV. FCC FOIA Response

On May 20, 2021, the FCC provided a 29 day past due response for FOIA FCC-2021-000341 response with 4 pages of FCC emails with the bodies of the emails completely redacted that had nothing to do with FOIA referrals or consultants.

FCC FOIAonline records stated the final disposition was **Partial Grant/Partial Denial** and the FCC closed the FOIA request FCC-2021-000341 on May 21, 2021. The Response letter stated the following:

The Office of the Managing Director conducted a search and located four pages responsive to your request. Some material on the pages produced has been redacted due to the reasons discussed below. Records responsive to your request were withheld or redacted under FOIA Exemption 5.

V. Arguments

Argument 1 - Inadequate Search and/or Responsive Records being Wrongfully/Improperly Withheld.

The FOIA search was inadequate and/or the FCC withholding in Full Responsive Records.

The EPA and NARA produced emails through District Court order in DDC 17cv1394 Chelmowski v USA, FCC, EPA and NARA of multiple FOIA referrals and consultants with the FCC from the EPA and NARA including the following:

These referrals and consultants including but not limited ones documented from other agencies to the FCC include NARA-NGC-2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...

Of course, Agencies have mandatory duties pursuant, to federal laws, regulations, OMB, directives, policies, and procedure when a request is both FOIA and PA or if the individual asks for “all information about me” or similar language in the request.

The burden of proof is on the defendant agency, which must justify its decision to withhold any information. See 5 USC § 552(a)(4)(B); *Solar Sources, Inc. v. United States*, 142 F.3d 1033, 1037 (7th Cir. 1998)

This is not a duplicate argument the FCC Commission that already made an Appeal/Application for Review to the Full Commission determination in any my prior Appeal/AFR’s.

Argument 2 – FCC is fraudulently concealing these FOIA and Privacy Act Responsive Records because these records will IMPEACH the FCC, NARA and EPA statements under the Penalty of Perjury to Honorable Judge Boasberg in DDC 17cv1394

The FCC refused to comply with the FOIA deadline. The FCC two-page response and four (4) pages of random non-responsive emails could have been produced on April 21, 2021 deadline.

The FCC, Chairwoman, Commissioners, General Counsel, attorneys and staff negligently and/or fraudulently concealed this response and responsive records so Chelmowski would not have access of material facts needed in Chelmowski’s filings to Honorable Judge James Boasberg on April 22, 2021 in DDC 1:17cv1394 *Chelmowski v USA*, FCC, EPA and NARA.

VI. Conclusion

The FCC must provide a Commission Memorandum Opinion and Order addressing this One (1) arguments no later than August 16, 2021. Similar to my FOIA Appeal/AFR which the Commission finally complied with their mandatory duties on providing a Commission Memorandum Opinion and Order FCC 19-28 for the FOIA Appeal/AFR FCC-2019-086.

Argument 1 - Inadequate Search and/or Responsive Records being Wrongfully/Improperly Withheld.

The FOIA search was inadequate and/or the FCC withholding in Full Responsive Records.

The EPA and NARA produced emails through District Court order in DDC 17cv1394 Chelmowski v USA, FCC, EPA, and NARA of multiple FOIA referrals and consultants with the FCC from the EPA and NARA including the following:

These referrals and consultants including but are not limited to ones documented from other agencies to the FCC include NARA-NGC-2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...

Argument 2 – FCC is fraudulently concealing these FOIA and Privacy Act Responsive Records because these records will IMPEACH the FCC, NARA, and EPA statements under the Penalty of Perjury to Honorable Judge Boasberg in DDC 17cv1394

The FCC refused to comply with the FOIA deadline. The FCC's two-page response and four (4) pages of random non-responsive emails could have been produced on April 21, 2021 deadline.

The FCC, Chairwoman, Commissioners, General Counsel, attorneys, and staff negligently and/or fraudulently concealed this response and responsive records so Chelmowski would not have access to material facts needed in Chelmowski's filings to Honorable Judge James Boasberg on April 22, 2021, in DDC 1:17cv1394 Chelmowski v USA, FCC, EPA, and NARA.

The FCC Chairman and Commissioners must comply with their mandatory duties and make their Appeal/Application for Review decision on this one (1) argument in this FOIA/PA request Appeal/Application for review by July 25, 2019. The FCC Chairman and Commissioners finally complied with their mandatory duties for the first time on April 4, 2019, in providing a Memorandum Opinion and Order 19-28. Through omission, negligence and/or willful conduct, the FCC and Commission did not provide Memorandum Opinion and Orders for all my other two (2) Appeal/AFRs filed prior to this FOIA Appeal / Application for Review, which were their mandatory duties by federal laws, regulations, directives, policy and/or procedures.

THIS REQUESTER **WILL NOT CONSENT** TO THE FCC GENERAL COUNSEL OR ANY ONE ELSE TO INFORMALLY RESOLVING THIS FOIA APPEAL/APPLICATION FOR REVIEW TO THE FULL COMMISSION.

The FCC and FCC Commissioners deadlines by law, regulations and directives of 20 days (excepting Saturdays, Sundays, and legal public holidays for an Appeal/AFR DETERMINATION pursuant to FOIA 5 USC 552(a)(6) with determination by an FCC Memorandum Opinion and Order by the Commissioners pursuant to 47 CFR 0.461 and FCC FOIA Directive 1179.3. No later than August 16, 2021, to comply with the written Determination and Commissioners Memorandum Opinion and Order.

Sincerely,

/s/ James Chelmowski

James Chelmowski

FOIA/PA Requestor

EXHIBIT 12



Federal Communications Commission
Washington, D.C. 20554

September 20, 2021

VIA ELECTRONIC MAIL

James Chelmowski
6650 N. Northwest Highway, #300
Chicago, IL 60631
jchelmowski@comcast.net

Re: FOIA No. 2021-000341 (request)
FOIA No. 2020-000570 (appeal)

Mr. Chelmowski:

This letter dismisses your application for review (AFR)¹ filed in connection with the above-referenced Freedom of Information Act (FOIA) request.² Your FOIA request sought “all the FCC FOIA consultants [sic] and referrals to or from the FCC regarding this [r]equester James Chelmowski provide all communications, the FOIAonline records, and control numbers. These referrals and consultants [sic] including but not limited ones documented from other agencies to the FCC include NARA-NGC2016-000555, NARA-NGC-2017-000437, NARA-NGC-2018-000455, NARA-NGC-2018-000508, EPA-HQ-2017-005390, EPA-HQ-2017-008255, EPA-HQ-2017-008256, EPA-HQ-2018-007088, EPA-HQ-2019-000357, EPA-2020-006388, ...”³ In response to your request, the Federal Communications Commission (FCC or Commission) Office of the Managing Director (OMD) searched for records responsive to your request, disclosing four pages of records on May 20, 2021 in addition to providing a narrative response. In this narrative response, OMD explained that portions of the responsive records, consisting of deliberative communications between the FCC and National Archives and Records Administration (NARA) employees and management in connection with a FOIA request being processed by NARA, were redacted under the deliberative process privilege, as applied pursuant to FOIA Exemption 5, and provided the underlying rationale for doing so.⁴

Your AFR asserts that the FCC conducted an inadequate search and improperly withheld responsive records.⁵ The AFR also states that the Commission is concealing responsive records and could have issued the FOIA response within the statutory timeframe.⁶

¹ FOIA 2021-000570 (filed July 19, 2021) (AFR).

² FOIA 2021-000341 (filed Mar. 24, 2021) (FOIA request).

³ *Id.*

⁴ See Letter to James Chelmowski from Vanessa Lamb, Associate Managing Director, OMD (May 20, 2021) (FOIA response).

⁵ AFR at 4.

⁶ *Id.*

We dismiss your AFR because it raises no specific arguments that warrant the Commission's review of OMD's decision. The AFR offers no support or explanation for its assertions that OMD's search was inadequate and that the Commission is improperly withholding responsive records.⁷ As the FOIA response previously indicated, OMD disclosed all responsive records and withheld none in full. The statement regarding the timing of the FOIA response is similarly conclusory and provides no basis for review. Accordingly, we dismiss your AFR under section 0.251(j) of the Commission's rules for failure to articulate specific grounds for review.⁸

Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), we notify you of the provisions for judicial review under paragraph (a)(4) of the Freedom of Information Act. We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
ogis@nara.gov
<https://www.archives.gov/ogis>

Sincerely,



Elizabeth Lyle
Assistant General Counsel
Office of General Counsel

cc: FOIA Office

⁷ The AFR asserts that, in response to a court order, the Environmental Protection Agency (EPA) and NARA produced records related to multiple FOIA consultations and referrals with the FCC, including ten EPA or NARA FOIAs that it lists individually. To the extent that the AFR implies that the FCC should have located documents related to these or other agency FOIAs, as the FOIA response indicated previously, in accordance with the terms of the FOIA request, only documents related to FCC FOIAs in which FCC staff consulted with staff of another agency, or referred the request to another agency for response, would be responsive. Documents relating to other matters unrelated to FCC FOIA consultations or referrals, including where the requester sought mediation through NARA, would not be responsive to the FOIA request.

⁸ See 47 CFR § 0.251(j) (as the Commission's Chief FOIA Officer, "the General Counsel is delegated authority to dismiss FOIA applications for review that are untimely, repetitious, or fail to articulate specific grounds for review").