



UNITED STATES OF AMERICA  
Federal Trade Commission  
WASHINGTON, D.C. 20580

Office of the General Counsel

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Elizabeth Tucci  
Deputy General Counsel for Legal Counsel

May 12, 2022

VIA EMAIL

Laura Smith  
Truth in Advertising, Inc.  
P.O. Box 927  
Madison, CN 06443

Re: Freedom of Information Act ("FOIA") Appeal | FOIA Request No. 2022-00763

Dear Ms. Smith:

I am writing as the official designated to review FOIA appeals for the Federal Trade Commission ("FTC").

On March 29, 2022, Jason Bagley submitted a FOIA request seeking access to consumer complaints regarding the exploitation of children on the gaming platform, Roblox. On March 30, 2022, Associate General Counsel Dione J. Stearns informed Mr. Bagley that the FOIA Unit located 1,291 responsive complaints from the Commission's Consumer Sentinel database and would provide the "newest 200 complaints."

In response to Ms. Stearns' determination, on April 4, 2022, Mr. Bagley asked the FOIA Unit for access to all 1,291 complaints or receive the complaints in batches of 200. The FOIA Unit denied Mr. Bagley's request, which prompted you to ask the FOIA Unit for an FTC rule or regulation that prohibits the agency from providing more than 200 consumer complaints in a FOIA request. The FOIA Unit then responded to you stating that while there is no FTC regulation to limit consumer complaints to 200, courts have stated that processing the request should not require an unduly burdensome effort or be disruptive of Commission operations.

On April 18, 2022, you submitted a timely appeal challenging the FOIA Unit's decision to produce only 200 of the 1,291 responsive complaints, asserting that the 200-complaint cutoff is

arbitrary and capricious and “prevents TINA.org from discerning any statistically significant patterns or practices revealed within consumer complaints to the Commission about Roblox.”<sup>1</sup> You also requested that the FTC “release *all* consumer complaints regarding Roblox as public interest in their release outweighs any public interest in withholding them.”<sup>2</sup>

As an initial matter, I would note that tracking complaints about a company’s business practices falls outside the core purpose of the FOIA, which “focuses on the citizens’ right to be informed about what their *government* is up to . . . . That purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency’s own conduct.”<sup>3</sup> Moreover, the government has an obligation to ensure that documents released through FOIA requests do not create an unwarranted invasion of privacy of the individuals who filed complaints.<sup>4</sup> The U.S. District Court for the District of Columbia has recognized that when, as is the case here, requesters seek access to “free form” fields of Consumer Sentinel complaints, the Commission’s FOIA Unit must conduct a painstaking manual review to identify and redact personally identifying information that often appears in these fields.<sup>5</sup> In that case, *Ayuda v. FTC*, the court found that the agency properly withheld the free-form data fields from requested Consumer Sentinel complaints by showing that the manual review required to redact such information from the complaints placed an unreasonable burden on the Commission.<sup>6</sup>

In that case, however, the requester had sought access to millions of consumer complaints. Here, you are seeking access to 1,291 complaints. Based on my review of the record, I conclude that fulfilling this request would not place an undue burden on the agency. I therefore remand this request and direct the FOIA Unit to provide redacted versions of the remaining responsive complaints, subject to satisfaction of reasonable search fees if applicable to your organization.

If you are dissatisfied with my action on your appeal, FOIA permits you to file a lawsuit in accord with 5 U.S.C. § 552(a)(4)(B), in a United States District Court in the district where you reside or have your principal place of business, or in the District of Columbia.

Finally, I note that the 2007 FOIA amendments created the Office of Governmental Information Services (“OGIS”) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. *See* <https://ogis.archives.gov>. Using OGIS services does not affect your right to pursue litigation. OGIS’s contact information is as follows:

Office of Government Information Services  
National Archives and Records Administration

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<sup>1</sup> APP 2022-00030 Laura Smith Appeal Letter re: FOIA 2022-00763 dated April 18, 2022 (hereinafter “Smith Appeal”).

<sup>2</sup> *Id.* (emphasis added).

<sup>3</sup> *U.S. Dep’t of Just. v. Repts. Comm. For Freedom of Press*, 489 U.S. 749, 773 (1989) (emphasis added).

<sup>4</sup> *Ayuda, Inc. v. FTC*, 70 F. Supp. 3d 247, 266-67 (D.D.C. 2014).

<sup>5</sup> *Id.* at 265-77.

<sup>6</sup> *Id.* at 277.

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Sincerely,

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CC: Jason Bagley