



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 3, 2021

Mary Carter  
US Chamber of Commerce  
1615 H. Street, NW  
Washington, DC 20062

Re: FOIA-2022-00322

Dear Ms. Carter:

This is in response to your request dated December 2, 2021, under the Freedom of Information Act seeking access to full and complete copies of (a) the Office of the Secretary Procedures Manual dated April 7, 1994, and any newer version, including updates, revisions, or successor or superseding documents; and (b) the document containing the Policy with Respect to Counting Votes of Departing and Arriving Commissioners dated March 27, 1984, and any newer version, including updates or revisions, or successor or superseding documents. In accordance with the FOIA and agency policy, we have searched our records on December 7, 2021.

The Commission's fee regulations specify that fees less than \$25 will be waived. *See* 16 C.F.R. § 4.8(b)(4). Because the fees associated with the processing of your request did not exceed \$25, we have processed your request free of charge.

Some of the records relating to your request are on the Federal Trade Commission's (FTC) public record. You may access the records using the link you provided in your initial request letter. A formal Freedom of Information Act request is not necessary to obtain this material. Additionally, we are withholding all superseding, revised, or new records relating to the Office of Secretary Procedures Manual in full under FOIA Exemption 5. The responsive records contain staff analyses, opinions, and recommendations. Such records are deliberative and pre-decisional and are an integral part of the agency's decision-making process. They are exempt from disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *See NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975).

If you have any questions about the way we handled your request or about the FOIA regulations or procedures, please contact Anthony Ellis at [rellis@ftc.gov](mailto:rellis@ftc.gov). If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, or via email at [FOIAAppeal@ftc.gov](mailto:FOIAAppeal@ftc.gov), within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at 202-326-3355 or via e-mail at [rgold@ftc.gov](mailto:rgold@ftc.gov); or from the Office of Government Information Services via email at [ogis@nara.gov](mailto:ogis@nara.gov), via fax at 202-741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740. Please note that the FOIA Public Liaison's role relates to comments, questions or concerns that a FOIA Requester may have with or about the FOIA Response. The FOIA Public Liaison's role does not relate to taking action in matters of private controversy nor can he resolve individual complaints.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dione J. Stearns".

Dione J. Stearns  
Assistant General Counsel



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 10, 2022

Mary Carter  
US Chamber of Commerce  
1615 H Street, NW  
Washington, DC 20062

Re: FOIA-2022-00324

Dear Ms. Carter:

This is in response to your request dated December 2, 2021 under the Freedom of Information Act seeking access to:

All records related to counting votes of Former Commissioners for a period of time after their departure from the Commission. This request includes, but is not limited to, any legal analysis performed or received by the FTC; any and all internal guidance or rules governing voting procedures; how long the agency counts votes following a Commissioner's departure and what actions can extend or reopen a motion to vote; the history of this practice; any communications between the FTC and the White House; and any press statements or drafts of press statements. The timeframe for this request is November 23, 2020 (the start of the presidential transition period) to the present. The term "records" as used in this request includes emails, handwritten or typed notes, phone calls, meeting minutes, meeting agendas, calendar entries, electronic chats, instant messages, encrypted or self-destructing messages, messages sent via Facebook messenger, text messages, voice messages, and other hard copy documents stored on official or personal devices.

Your request did not indicate an agreement to pay any fees associated with the processing of your request. In the future, please provide a fee agreement to facilitate the processing of your request.

Your request creates an undue burden on the agency because it creates an unreasonable hardship for the agency to process, even if the specificity requirements are met. *See Nat'l Sec. Counselors v. CIA*, 960 F. Supp. 2d 101, 147 (D.D.C. 2013) (quoting *Am. Fed'n of Gov't Emps., Local 2782 v. U.S. Dept. of Commerce*, 907 F.2d 203, 209 (D.C. Cir. 1990)). The courts have opined that even if a request reasonably describes the records being sought, the request can still be considered improper if the request is "so broad as to impose an unreasonable burden upon the agency." *Id.*

Overbroad and unreasonably burdensome requests are considered invalid because "FOIA was not intended to reduce government agencies to full-time investigators on behalf of

requesters.” *Ass’n Archives & Research Ctr., Inc. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1989). Even if the request meets the FTC FOIA “precise description” requirement, it can still be unduly burdensome on the agency to process. Therefore, we are denying your request.

If you have any questions about the way we are handling your request or about the FOIA regulations or procedures, please contact Anthony Ellis at [rellis@ftc.gov](mailto:rellis@ftc.gov). If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, or via email at [FOIAAppeal@ftc.gov](mailto:FOIAAppeal@ftc.gov), within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at 202-326-3355 or via e-mail at [rgold@ftc.gov](mailto:rgold@ftc.gov); or from the Office of Government Information Services via email at [ogis@nara.gov](mailto:ogis@nara.gov), via fax at 202-741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740. Please note that the FOIA Public Liaison’s role relates to comments, questions or concerns that a FOIA Requester may have with or about the FOIA Response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dione J. Stearns".

Dione J. Stearns  
Assistant General Counsel



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

January 14, 2022

Mary Carter  
US Chamber of Commerce  
1615 H Street, NW  
Washington, DC 20062

Re: FOIA-2022-00323

Dear Ms. Carter:

This is in response to your request dated December 3, 2021 under the Freedom of Information Act seeking access to:

All records related to votes cast by Former Commissioner Rohit Chopra between September 30, 2021 and October 8, 2021. This includes, but is not limited to, the specific votes he purported to take that have yet to be made public or might never be made public as of the date of this request; records related to any matter that was not publicly announced by the FTC prior to December 2, 2021; matters that were not yet voted on by all other Commissioners before October 8, 2021 but were voted on by Former Commissioner Chopra; legal analysis performed or received by the FTC; communications between the FTC and the White House; as well as press statements or drafts of press statements. The timeframe for the Chamber's request is July 1, 2021 to the present. For purposes of this FOIA request, we seek as a priority and initial matter documents reflecting the subject matter and dates of votes that Former Commissioner Chopra purported to take between September 30, 2021 and October 8, 2021 on any or all matters that had not been voted on by all other Commissioners before October 8, 2021, with additional records subject to this request provided on a rolling basis thereafter. The term records as used in this request includes emails, handwritten or typed notes, phone calls, meeting minutes, meeting agendas, calendar entries, electronic chats, instant messages, encrypted or self-destructing messages, messages sent via Facebook messenger, text messages, voice messages, and other hard copy documents stored on official or personal devices.

Your request creates an undue burden on the agency because it creates an unreasonable hardship for the agency to process, even if the specificity requirements are met. *See Nat'l Sec. Counselors v. CIA*, 960 F. Supp. 2d 101, 147 (D.D.C. 2013) (quoting *Am. Fed'n of Gov't Emps., Local 2782 v. U.S. Dept. of Commerce*, 907 F.2d 203, 209 (D.C. Cir. 1990)). The courts have opined that even if a request reasonably describes the records being sought, the request can still be considered improper if the request is "so broad as to impose an unreasonable burden upon the agency." *Id.*

Overbroad and unreasonably burdensome requests are considered invalid because “FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters.” *Ass’n Archives & Research Ctr., Inc. v. CIA*, 720 F. Supp. 217, 219 (D.D.C. 1989). Even if the request meets the FTC FOIA “precise description” requirement, it can still be unduly burdensome on the agency to process. Therefore, we are denying your request in full.

If you have any questions about the way we are handling your request or about the FOIA regulations or procedures, please contact Anthony Ellis at [rellis@ftc.gov](mailto:rellis@ftc.gov). If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, or via email at [FOIAAppeal@ftc.gov](mailto:FOIAAppeal@ftc.gov), within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at 202-326-3355 or via e-mail at [rgold@ftc.gov](mailto:rgold@ftc.gov); or from the Office of Government Information Services via email at [ogis@nara.gov](mailto:ogis@nara.gov), via fax at 202-741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740. Please note that the FOIA Public Liaison’s role relates to comments, questions or concerns that a FOIA Requester may have with or about the FOIA Response.

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Dione J. Stearns  
Assistant General Counsel