



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

October 19, 2018

VIA EMAIL

Jake Todd
427 Glendale Road,
Bellevue, ID 83313

Re: FOIA-2018-01282

Dear Mr. Todd:

This is in response to your Freedom of Information Act (FOIA) request for access to “email records,” sent from or to various FTC officials, that include in the email body the terms “Monopoly” and “Facebook” or “Zuckerberg.”

In accordance with the FOIA and agency policy, searches of the relevant officials’ email records have been conducted, and as a result, two records responsive to your request were located. After careful consideration, we are granting you full access to one of these records, which you will find enclosed. We are, however, withholding the other record because it is exempt from public disclosure under FOIA Exemption 5.

Exemption 5 protects inter- or intra-agency communications that “would not be available by law to a party other than an agency in litigation with the agency.” 5 U.S.C. § 552(b)(5). Courts have interpreted Exemption 5 to cover those documents that are normally privileged in the civil discovery context. *See NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 149 (1975). In this case, the withheld record falls within the ambit of the “deliberative process” privilege. This privilege covers pre-decisional materials and deliberations, generated as part of the agency’s decision-making process. *See DOI v. Klamath Water Users Protective Ass’n*, 532 U.S. 1, 8-9 (2001).

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, 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; or from the Office of Government Information Services via email at 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.

If you have any questions about the way we are handling your request or about the FOIA regulations or procedures, please contact Francis Conlon at 202-326-2930.

Sincerely,

/s/

Dione J. Stearns
Assistant General Counsel