

September 29, 2010

Attn: Managing Director
Federal Communications Commission
445 12th Street, S.W., Room 1-A836
Washington, D.C. 20554
Re: Freedom of Information Act Request

Dear Sir or Madam:

I am writing you on behalf of the Environmental Working Group to make a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and corresponding Federal Communications Commission regulations, 47 C.F.R. §§ 0.441 – 0.470.

EWG is a non-partisan, non-profit organization dedicated to using the power of information to protect public health and the environment. EWG provides useful resources to consumers and advocates policies that promote conservation and mitigate health risks.

As part of that undertaking, EWG routinely monitors the FCC website for updates to its information on cell phones and radio frequency (RF) radiation. Doing so, EWG noticed last week that the FCC overhauled its consumer information pages on specific absorption rate (SAR) regulation and cell phone safety.¹

EWG is troubled by those changes because they largely echo industry's position against municipalities considering whether to require public disclosure of cell phones' SAR values at the point of sale. For example, CTIA – The Wireless Association is seeking an injunction

¹ FCC Consumer Facts: Wireless Devices and Health Concerns, <http://www.fcc.gov/cgb/consumerfacts/mobilephone.html> (last visited Sept. 27, 2010). On this page, the FCC added in bold on Sept. 20, 2010: “The FCC does not endorse the need for these practices,” referring to actions taken by consumers to reduce their exposure to RF radiation. The FCC also removed on that date two items that used to appear in a recommendation list for consumers initially made available in late-2009: item 2, which used to state, “[i]f possible, keep wireless devices away from your body when they are on, mainly by not attaching them to belts or carrying them in pockets,” and item 5, which used to state, “[b]uy a wireless device with lower SAR.” See also FCC Consumer Facts: SAR for Cell Phones: What It Means for You, <http://www.fcc.gov/cgb/consumerfacts/sar.html> (last visited Sept. 27, 2010)(page posted on FCC website on Sept. 20, 2010).

for San Francisco's Cell Phone Right-to-Know Ordinance, No. 155-10, which Mayor Gavin Newsom signed into law in July 2010.

Because of the public's interest in this matter, EWG requests copies of all FCC records (including but not limited to electronic records) relating to the development and drafting of the FCC's revised "Wireless Devices and Health Concerns" page and its new page entitled "SAR for Cell Phones: What It Means for You."

Specifically, EWG requests access to the following types of records:

(1) All shared or public calendar entries with Mr. Bruce Romano and other staff in the FCC Office of Engineering and Technology (OET), the FCC Office of General Counsel, or any of the FCC commissioners' offices listing all meetings with CTIA employees and representatives regarding the development of those updated pages on wireless device health concerns and SAR values;

(2) All e-mail or written correspondence between Mr. Romano and OET staff and CTIA employees and representatives concerning the FCC's updated pages on wireless device health concerns and SAR values;

(3) All e-mail or written correspondence between Mr. Romano and CTIA employees and representatives concerning federal SAR oversight, municipalities' recent efforts to require disclosure of cell phones' SAR values to consumers at the point of sale, and cell phone safety science pertaining to RF radiation; and

(4) The names of all FCC employees responsible for drafting the final language that now appears on those pages as of September 20, 2010.

EWG will accept the requested records with all Privacy Act protected information redacted.

EWG asks the FCC to waive search or review fees related to this FOIA request in accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 47 C.F.R. § 0.470. Granting a fee waiver is in the public interest because this request will help the public understand how various governmental bodies interact to determine whether and how consumer product information is made public. EWG is a non-profit organization that educates consumers about potential risks associated with consumer products. Its interest in the requested documents is non-commercial. If the FCC cannot grant a fee waiver, EWG is willing pay up to \$100 so that the FCC may conduct the requested search in a timely fashion.

If you need further clarification about this FOIA request or anticipate any problems with releasing the requested documents, please contact me at (202) 667-6982.

EWG looks forward to your reply to this request within 20 business days, as provided under 5 U.S.C. § 552(a)(6)(A)(i) and 47 C.F.R. § 0.461(g).

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Cluderay', written in a cursive style.

Thomas Cluderay
Stabile Law Fellow
Environmental Working Group