



1550 Crystal Drive
Suite 804
Arlington, VA 22202
T 202.244.4700
F 202.966.4818

March 2, 2022

Chief FOIA Officer, Office of the General Counsel, Division of the Secretariat
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

VIA EMAIL CPSCFOIARequests@cpsc.gov

To whom it may concern:

On September 13, 2021, the National Waste & Recycling Association (NWRA) filed a request (#21-F-00565) pursuant to the Freedom of Information Act, Title 5 U.S.C. §522 as well as 15 U.S.C. §2055 and 16 CFR Part 1015, asking the Consumer Product Safety Commission (CPSC) to produce specific information and communications as it relates to mobile phones (see attached.)

NWRA found CPSC's response on December 28, 2021, to be incomplete based upon the association's request and its specific knowledge of what is in the possession of CPSC. For example, emails previously provided to NWRA by a safety advocate between that individual and CPSC, which fall within the date range requested and are directly on point to the association's request down to specific keywords, were not included.

CPSC provided to NWRA newspaper articles with information redacted from them as well as NWRA's own interactions with CPSC with information redacted. One of these items, NWRA's press release about the CPSC initially refusing to meet with NWRA, was fully redacted.

There was almost no information contained in the response material that the association could not have garnered itself through a simple internet search which would not have included the redactions. For this, the CPSC sent NWRA a bill for \$160.25 to conduct the search.

When NWRA requested a meeting to discuss the discrepancies between what CPSC had provided and what is known to be in their possession, CPSC's Assistance General Counsel, Division of the Secretariat Abioye E. Mosheim doubled-down with a statement that CPSC staff had been advised not to meet with NWRA further. The message concluded with a suggestion to file an appeal with the CPSC if the association had additional concerns.

NWRA respectfully requests CPSC to reconsider their position with regard to this matter, comply with both the letter and spirit of the Freedom of Information Act, and conduct a thorough and accurate search of its records this time. Please consider this NWRA's notice of appeal.

NWRA would like to remind the CPSC that the CPSC has a history of noncompliance with FOIA. In a September 30, 2015, Inspector General [report](#) on an audit of the CPSC's Freedom of Information Act Program, the IG found that CPSC's "program did not comply with certain policies and procedures mandated by the FOIA."

I would hope that these deficiencies have been corrected by now.

Should you have any questions regarding this request, please contact NWRA's Chief Counsel & Senior Vice President of Government Affairs Jim Riley at 202-364-3744 or jriley@wasterecycling.org.

Sincerely,

A handwritten signature in cursive script that reads "Darrell K. Smith".

Darrell K. Smith, PhD
President and CEO

Attachment



1550 Crystal Drive
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September 13, 2021

Chief FOIA Officer, Office of the General Counsel, Division of the Secretariat
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

VIA EMAIL CPSCFOIARequests@cpsc.gov

To whom it may concern:

Pursuant to the Freedom of Information Act, Title 5 U.S.C. §522 as well as 15 U.S.C. §2055 and 16 CFR Part 1015, the National Waste & Recycling Association hereby requests:

Any and all correspondence between the Consumer Product Safety Commission (CPSC) and Apple, Samsung, Google, Microsoft and any other mobile phone manufacturers or mobile phone operating system software providers (herein after collectively referred to as the "parties") regarding their mobile phone products as well as any ancillary documents and records in the possession of CPSC;

any and all calendar entries regarding meetings where individuals associated with the parties were present and the topic of mobile phone products was discussed;

any and all meeting logs from meetings where individuals associated with and/or representatives of the parties were present and the topic of mobile phone products was discussed;

any and all meeting minutes from meetings where individuals associated with and/or representatives of the parties were present and the topic of mobile phone products was discussed;

any and all recordings (audio and video) of meetings where individuals associated with and/or representatives of the parties were present and the topic of mobile phone products was discussed;

any and all photographs of meetings where individuals associated with and/or representatives of the parties were present and the topic of mobile phone products was discussed;

any and all notes pertaining to the topic of mobile phone products taken during meetings where individuals associated with and/or representatives of the parties were present;

any and all notes taken about the parties in relation to the topic of mobile phone products;

any and all internal CPSC emails or other correspondence regarding the parties in relation to the topic of mobile phone products;

any and all complaints filed with and/or correspondence received by the CPSC from the general public in relation to the topic of mobile phone products;

any and all complaints filed with and/or correspondence received by the CPSC from the general public in relation to the topic of distracted driving;

any and all communications and/or documents sent, received or otherwise in the possession of the CPSC regarding the topic of distracted driving; and

any and all correspondence between the CPSC and other federal agencies on the topic of the hazards that mobile phone products create on our nation's roads from inattentive and distracted drivers;

with dates ranging from June 29, 2007 through September 13, 2021.

Please notify NWRA of any associated costs prior to proceeding.

Should you have any questions regarding this request, please contact NWRA's Chief Counsel & Senior Vice President of Government Affairs Jim Riley at 202-364-3744 or jriley@wasterecycling.org.

Sincerely,

A handwritten signature in cursive script that reads "Darrell K. Smith".

Darrell K. Smith, PhD
President and CEO