



Federal Communications Commission  
Washington, D.C. 20554

June 21, 2017

DA 17-604

Mr. Jarrod Sharp  
370 East Diamond Avenue  
Gaithersburg, MD 20877

Re: FOIA Control No. 2017-000604

Dear Mr. Sharp:

We have received your application for review<sup>1</sup> of the Office of General Counsel's decision<sup>2</sup> addressing your Freedom of Information Act (FOIA) request (*FOIA Request*) seeking: (1) "the legal analysis completed by FCC attorneys that authorized Mr. Pai's 2017 policy and/or decision to rescind the net neutrality rules" and (2) "a copy of the policy itself."<sup>3</sup> As explained below, we dismiss your application for review.

In the *FOIA Initial Decision*, we explained that "Chairman Pai has neither implemented a policy nor adopted a decision 'to rescind the net neutrality rules' adopted by the Commission in the 2015 *Open Internet Order*,<sup>4</sup> and as such the agency has no records of the type your request seeks."<sup>5</sup> We stated that the Commission has recently released a *Notice of Proposed Rulemaking* seeking comment from the public on restoring Internet freedom.<sup>6</sup> We also said that the *Notice of Proposed Rulemaking* discusses the rules the Commission adopted in the 2015 *Open Internet Order*. We noted that a copy of that document can be found on the Commission's website.<sup>7</sup>

In your application for review of the *FOIA Initial Decision*, the entirety of your appeal states: "Dear Sir or Madam: I hereby appeal the FCC's refusal to provide responsive records related to this abovementioned request. Very truly yours, Jarrod Sharp."<sup>8</sup> You do not elaborate on the reason for your appeal or how you believe the Commission erred in responding to your request. You have not presented any argument upon which you request that the Commission rule

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<sup>1</sup> See *FOIA Decision Appeal* (FOIA Control Number 2017-000744: submitted and perfected June 9, 2017).

<sup>2</sup> See letter from Elizabeth Lyle, Assistant General Counsel, Office of General Counsel (OGC), FCC, to Jarrod Sharp (June 5, 2017) (*FOIA Initial Decision*).

<sup>3</sup> See *FOIA Request* (submitted May 9, 2017; perfected May 10, 2017).

<sup>4</sup> See *Protecting and Promoting the Open Internet, Report and Order on Remand, Declaratory Ruling, and Order*, 30 FCC Rcd 5601 (2015) (*Open Internet Order*).

<sup>5</sup> See *FOIA Initial Decision* at 1.

<sup>6</sup> See *id.* (citing *Restoring Internet Freedom, Notice of Proposed Rulemaking*, FCC 17-60, WC Docket No. 17-108, 2017 WL 2292181 (adopted: May 18, 2017; released: May 23, 2017) (*Notice of Proposed Rulemaking*)).

<sup>7</sup> See *id.* (citing <https://www.fcc.gov/document/restoring-internet-freedom-notice-proposed-rulemaking>).

<sup>8</sup> See *FOIA Decision Appeal*.

on. Therefore, we dismiss your application for review under section 0.251(j) of the Commission's rules for failure to articulate specific grounds for review.<sup>9</sup>

Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), we notify you of the provisions for judicial review under paragraph (a)(4) of the Freedom of Information Act.<sup>10</sup> We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road—OGIS  
College Park, MD 20740-6001  
202-741-5770  
877-684-6448  
ogis@nara.gov  
ogis.archives.gov

Sincerely,

Brendan Carr  
General Counsel  
Office of General Counsel

cc: FOIA Officer

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<sup>9</sup> See 47 C.F.R. § 0.251(j) (as the Commission's Chief FOIA Officer, "the General Counsel is delegated authority to dismiss FOIA applications for review that are untimely, repetitious, or fail to articulate specific grounds for review").

<sup>10</sup> See 5 U.S.C. § 552(a)(4)(B) ("On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.")