

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
WILLIAM J. KIRSCH
On Request for Inspection of Records
FOIA Control No. 2015-368

MEMORANDUM OPINION AND ORDER

Adopted: July 13, 2016

Released: July 14, 2016

By the Commission:

1. We have before us an application for review1 filed by William J. Kirsch seeking review of a decision of the International Bureau2 providing a fee estimate for processing his Freedom of Information Act (FOIA) request3 and requesting that he respond by a date certain to either authorize fees or modify his request. Mr. Kirsch did not respond to that decision, instead filing this AFR.4 The AFR generally requests review and grant of the FOIA request,5 and contains other requests and statements that bear no apparent relevance to FOIA Control No. 2015-368 or any other FOIA request.6 We dismiss,

1 Email from William J. Kirsch to FOIA-Appeal (filed November 30, 2015) (AFR).

2 Letter from Olga Madruga-Forti, Chief, Strategic Analysis and Negotiation Division, International Bureau, FCC to William J. Kirsch (April 10, 2015).

3 Email from William Kirsch to Stephanie Kost, FCC (filed March 19, 2015) (seeking "any and all written information, including notes taken, concerning the recent visit of Haolin Zhao, Secretary General, International Telecommunication Union, to the Federal Communications Commission ... includ[ing] any and all information associated with an ITU update of those Member States that were signatories to the International Telecommunications Regulations (Dubai 2012) submitting a ratification, if any, to the Secretariat and details concerning the entry into force. Please also provide me with any update of progress on ITU compensation to me for 'mobbing'").

4 Mr. Kirsch claims not to have received the April 10, 2014, IB decision. We do not need to resolve that factual question, as we are not dismissing the AFR as untimely, but rather on different grounds. See 47 C.F.R. §§ 0.461(j), 1.115(d) (applications for review are due 30 days following release date).

5 See AFR at para. 1 ("Please provide for review and grant of my Freedom of Information Act and Privacy Act request 2015-368 concerning the visit of Secretary-General Zhao to the FCC and any and all information associated with an ITU update of those Member States that were signatories to the International Telecommunications Regulations (Dubai 2012) submitting a ratification, if any, to the Secretariat and details concerning the entry into force. Please also provide for grant of my review and grant of my request for any update of progress on ITU compensation to me for 'mobbing'").

6 See AFR ("Please also note that the FCC response failed to provide notice of the basis under the Privacy Act for the assessment of fees and my request for a Privacy Act correction to my personnel file to note my candidacy for the position of Secretary-General of the ITU at the 2014 and the 2018 Plenipotentiary Conferences and therefore the FCC has waived its right, if any, to assess the proposed fee of \$904.02.")

because Mr. Kirsch's generalized request for review of the International Bureau response⁷ fails to allege any of the grounds warranting Commission review specified in section 1.115(b),⁸ To the extent that the AFR also can be construed as a challenge to the April 8, 2015 decision of the Office of General Counsel denying a fee waiver,⁹ the AFR also is dismissed for failure to allege grounds warranting review and for untimeliness.¹⁰

2. ACCORDINGLY, IT IS ORDERED that the AFR filed by William J. Kirsch in FOIA Control No. 2015-368 is DISMISSED. Mr. Kirsch may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).¹¹

3. The officials responsible for this action are the following: Chairman Wheeler, and Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁷ Mr. Kirsch's references to the Privacy Act in his FOIA request and AFR raise no discernable issues under that statute for us to address. *See, e.g., William J. Kirsch*, 28 FCC Rcd 15280, 15280 n.5, 15297 para. 42 (2013); *William J. Kirsch*, 30 FCC Rcd 12271, 12273 para. 3 (2015).

⁸ 47 C.F.R. § 1.115(b). Although the AFR was filed months after the International Bureau response, we do not decide whether the AFR is untimely, because we are unable to confirm when Mr. Kirsch was provided a copy of the International Bureau response.

⁹ *See* AFR at para. 2 ("Please note that in light of the obvious public interest in determining to what extent the FCC may be following the lead of the Secretary-General from the People's Republic of China rather than providing leadership itself in international telecommunications that the public interest requires an [sic] FOIA waiver of fees as requested").

¹⁰ In an email dated April 8, 2015, Mr. Kirsch also filed an application for review of the Office of General Counsel's April 8, 2015 fee waiver denial. On October 28, 2015, the Commission issued an order disposing of that and other challenges filed by Mr. Kirsch. *See William J. Kirsch on Requests for Inspection of Records*, FOIA Control Nos. 2015-367, 2015-368, 2015-369, and 2015-377, 30 FCC Rcd 12271 (2015). The thirty-day deadline for filing a petition for reconsideration of the Commission's October 28, 2015 order was November 27, 2015. *See* 47 C.F.R. §§ 1.4(b)(2), 1.106(f).

¹¹ 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 Mr. Kirsch's right to pursue litigation. Mr. Kirsch may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448