



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

JUL 09 2009

Re: [REDACTED]
Cbeyond Inc., et. al.

Dear [REDACTED]

This is in response to your request dated June 18, 2009, under the Freedom of Information Act seeking access to records relating to Cbeyond Inc, Cbeyond Communications LLC, James Geiger, and Richard Batelaan. In accordance with the FOIA and agency policy, we have searched our records, as of June 29, 2009, the date we received your request in our FOIA office.

We have located approximately 200 pages of responsive records. I am granting partial access to, and am enclosing copies of, the accessible records. One hundred pages, and portions of other pages, are subject to two of the nine exemptions to the FOIA's disclosure requirements, as explained below.

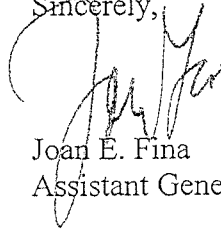
Enclosed are approximately 100 pages of responsive complaints that consumers have sent to the Federal Trade Commission ("FTC"). You should know that the enclosed complaints have not necessarily been verified by the FTC. Therefore, you should make your own judgment about relying on the information provided. I am denying access to consumers' names and addresses, and any other identifying information found in the complaints. This information is exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. See *The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

I am withholding approximately 100 responsive pages which are exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), because they are exempt from disclosure by another statute. Specifically, Section 21(f) of the FTC Act provides that information obtained by the Commission in a law enforcement investigation, whether through compulsory process, or voluntarily in lieu of such process, is exempt from disclosure under the FOIA. 15 U.S.C. § 57b-2(f), see *Kathleen McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63964 (D.D.C. April 13, 1981).

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, within 30 days of the date of this letter. Please enclose a copy of your original request and a copy of this response. If you believe that we should choose to disclose additional materials beyond what the FOIA requires, please explain why this would be in the public interest.

If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Carolyn Lowry at 202-326-3055.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joan E. Fina', written over a faint, illegible stamp or background.

Joan E. Fina
Assistant General Counsel