



United States International Trade Commission

# 2022 CHIEF FOIA OFFICER REPORT



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## Introduction

Congress established the U.S. International Trade Commission (USITC or Commission) in 1916. It is an independent, quasi-judicial federal agency whose mission is to investigate and make determinations in proceedings involving imports claimed to injure a domestic industry or violate U.S. intellectual property rights; provide independent analysis and information on tariffs, trade, and competitiveness; and maintain the U.S. tariff schedule.

The Commission has identified two mission-related strategic goals. First, it will produce sound, objective, and timely determinations in trade remedy proceedings. Second, the Commission will produce independent, objective, and timely analysis and information on tariffs, trade, and competitiveness. These goals reflect the interests of its principal customers – the president, the U.S. Trade Representative, and Congress, and thereby also serve U.S. industry, workers, and the general public. In order to deliver greater impact, the Commission also established a management goal to efficiently and effectively advance the agency’s mission.

The USITC’s Chief Freedom of Information Act (FOIA) Officer administers the USITC’s FOIA Program with the assistance of the FOIA Public Liaison. As a small agency, the USITC maintains staff commensurate with its needs to effectively implement its FOIA program.

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Please provide a short narrative for how your agency improved its FOIA administration during the reporting period. Your narrative may include any steps taken to: apply the presumption of openness, ensure that your agency has an effective system in place for responding to requests, increase proactive disclosures, greater utilize technology, and improve timeliness in responding to requests and reducing any backlogs. You may also include in this narrative a description of any best practices and/or challenges that your agency has faced in its FOIA administration.

## **Section I: Steps Taken to Apply the Presumption of Openness**

In its continuing response to the COVID-19 global pandemic, the Commission transitioned to a maximum telework posture and the USITC building remains closed to the public. The Commission provided public notice informing of the modified status. The temporary suspension of rules requiring the filing of paper submissions and copies in Commission investigatory proceedings remains in effect, and the agency continues to conduct its investigative hearings and conferences via video-conference. The USITC maintains its “USITC Response to COVID-19” webpage to inform and provide updates to the public regarding Commission operations, and to provide details regarding the Commission’s implementation of [Executive Order 13991 “Protecting the Federal Workforce and Requiring Mask-Wearing”](#) and Office of Management and Budget (OMB) [Memorandum M-21-15 “COVID-19 Safe Federal Workplace: Agency Model Safety Principles,”](#) (OMB Memo) at the USITC Building. [https://www.usitc.gov/press\\_room/featured\\_news/usitc\\_response\\_covid\\_19.htm](https://www.usitc.gov/press_room/featured_news/usitc_response_covid_19.htm).

The “USITC Response to COVID-19” webpage contains information regarding the USITC’s operations during the pandemic, references and links to the applicable Federal Register notices concerning the temporary changes to Commission rules, guidance materials, and frequently asked questions (FAQs) to assist agency customers and the public in conducting business before the Commission in the current environment. The website also contains a specific section related to information regarding FOIA requests. In that section, the USITC notifies the public that the agency may experience delays in responding to FOIA requests that seek documents that are available only in hard copy, and in processing FOIA requests and related correspondence by mail. The FOIA-related section encourages those who intend to submit FOIA requests to do so electronically, through the agency’s online portal, or by email.

## **Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

The USITC places a high priority on training and education. During calendar year 2021, FOIA staff attended the Department of Justice’s (DOJ) training sessions covering updates to the annual re-report, and the Chief FOIA Officer’s Council meetings. All of the Commission’s FOIA professionals attended substantive FOIA training during this reporting period.

In 2021, the USITC’s FOIA Program continued to update its FOIA correspondence templates to promote efficiency and expediency in responding to FOIA requests. Using templates as a baseline to respond to requestors also continues to ensure that the agency provides clear and consistent information to requestors.

As part of its continuous efforts to ensure that the USITC's FOIA Program operates efficiently and effectively, Commission FOIA staff, including the Chief FOIA Officer and the FOIA Public Liaison, meet at least quarterly to review the current-year FOIA files. We review our FOIA checklist to ensure that all appropriate documents are contained within each file, as well as recorded accurately, and we ensure that staff has followed all internal procedures. This approach enables the FOIA staff to continually improve and streamline the FOIA process to ensure that our FOIA Program operates efficiently and effectively.

The Commission provides the public with reference materials and a guide for requesting records or information. This resource is available on the USITC website at <https://www.usitc.gov/offices/secretary/foia/index.htm>.



### Section III: Steps Taken to Increase Proactive Disclosures

The Commission has an informal, but extensive, practice for identifying records and information of interest to the public for proactive disclosure. Staff working in each functional area reviews their applicable section(s) of the Commission's website to determine how best to address the interests of the public.

The USITC website contains links to the resources noted below.

- ( 1 ) *Federal Register* notices (since March 2021, published over **1349** columns notices in the Federal Register and posted over **415** notices on the Commission's website),
- ( 2 ) Publications (since March 2021, made over **87** additional publications available online),
- ( 3 ) Statistical data regarding investigations before the Commission (for example, the Commission instituted **55** new section 337 investigations were instituted in (FY 2021),
- ( 4 ) Electronic Document Information System (EDIS) (since March 2021, posted over **15,000** public documents),
- ( 5 ) Press releases (**139** press releases issued and posted during the 2021 calendar year), and
- ( 6 ) The Harmonized Tariff Schedule of the United States (HTS) (received approximately **8.05** million visits to the HTS Search website for tariff information in 2021.).

The Commission also offers free email updates to the public through eSubscribe. Users may select multiple topic areas of interest to receive email notifications.

Additionally, the USITC maintains the FOIA Releasable Documents page, which provides the public with documents requested under FOIA. The USITC actively reviews closed FOIA requests throughout the year in order to be able to proactively disclose records likely to be of interest to the public. We are dedicated to ensuring openness and transparency as is evidenced by our commitment to increase proactive disclosures. The USITC's FOIA Releasable Documents page is available at: <https://www.usitc.gov/secretary/foia/foia-releasable-documents>.

Lastly, the Commission maintains the 337Info repository, which contains section 337 investigative data from FY 2009 to the present. It provides a list of recent complaints filed and comprehensive investigative data, including: complainant/respondent(s) information (e.g., country of origin); unfair act(s) at issue (e.g., list of specific patent numbers alleged); procedural history information (e.g., evidentiary hearing dates, target date, etc.); appeal information; and the assigned Administrative Law Judge. Users may utilize the search engine to obtain a wealth of detailed information regarding 337 investigations. Section 337 investigations conducted by the Commission most often involve claims regarding intellectual property rights, including allegations that imported goods infringe on U.S. patents and trademarks.

## **Section IV: Steps Taken to Greater Utilize Technology**

The Commission utilizes electronic means, when feasible, to communicate with FOIA requestors. When requestors provide their email address, we respond by email and acknowledge receipt of their request. We also use email as an opportunity to communicate with requestors during the course of processing the FOIA request and to respond to any general concerns or feedback relating to the request. Additionally, the Commission provides electronic records whenever possible and uses software to electronically apply any necessary redactions to released records.

Notably, we submitted all of the Commission's quarterly FOIA reports to our agency's web team for transmittal to DOJ for web posting. All quarterly reports were timely under DOJ's deadlines.

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs**

The Commission uses separate tracking for simple requests. In FY 2021, the average number of days to process simple requests was seventeen (17) days, and forty-six (46) days for complex requests. There were fourteen (14) backlogged requests in FY 2021, due to several requests received in the later part of Q4 FY 2021.

## **SUCCESS STORY**

On August 9, the USITC released version 3.11 of EDIS featuring electronic service of Commission-issued public documents in section 337 investigations and a new search capability. This new release included enhancements for the benefit of both practitioners and the general public. Highlights of the new electronic service features affecting practitioners included: 1) modification to the complaint filing process to capture complainant and respondent information identified in the section 337 complaint; 2) updated Notice of Appearance filing module to include selection of the participants the filer will be representing as Lead Counsel or Representative; and 3) creation of a service inbox for users identified as Lead Counsel to easily access documents which have been served electronically to their EDIS account.

New features of note to the general public included: 1) autogenerated public service lists allowing for real-time access to the latest information; and 2) creation of a query builder tool allowing users to build more complex queries by selecting from a list of available metadata fields, inputting search criteria, and combining them using operators such as AND, OR, and NOT. Users can save and name queries for future use.

The USITC continues to implement new platforms and features to promote efficiency and ease of access to investigative-related documents and information.



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