



Federal Communications Commission
Washington, DC 20554

July 6, 2026

VIA ELECTRONIC MAIL

Conor S. Gaffney
Counsel
Protect Democracy Project
2020 Pennsylvania Ave. NW, Suite #163
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FOIA@protectdemocracy.org

Re: FOIA Control No. 2026-000624

Mr. Gaffney:

This letter is an interim response to your Freedom of Information Act (FOIA) request (Request) to the Federal Communications Commission (Commission) for:

1) From April 20, 2026 until the date of search, all records that contain one or more of the following words or phrases (case insensitive):

- a) Disney
- b) ABC
- c) Kimmel
- d) "Expectant widow"
- e) "First lady"

2) From April 20, 2026 until the date of search, all records that reference or pertain to the April 23, 2026 monologue delivered by Jimmy Kimmel on Jimmy Kimmel Live!

3) From April 27, 2026 until the date of search, all records referring to an April 27, 2026 social media post by First Lady Melania Trump concerning Jimmy Kimmel, or an April 27, 2026 social media post by President Donald Trump concerning Jimmy Kimmel.¹

In addition, your Request seeks ". . . records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request."²

¹ Your request has been assigned FOIA Control No. 2026-000624 (submitted May 20, 2026).

² *Id.* The Request also states that "[i]f your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they

On May 20, 2026, Commission staff contacted you to seek clarification or narrowing of your request.³ On June 5, 2026, you agreed to “exclude records of daily media digests unless those records have been forwarded, replied to, or otherwise are the basis or part of an additional communication.”⁴ In addition, you agreed to “substitute the following search terms for the original search term ‘ABC’ in [the Request]:

- “ABC network”
- “ABC programming”
- “ABC news”
- “ABC license”
- “KFSN”
- “KABC”
- “KGO”
- “WLS”
- “WABC”
- “WTVD”
- “WPVI”
- “KTRK”⁵

In this first interim production, we produce to you 1,186 pages of records responsive to your Request. Some material on the pages produced has been redacted for one or more of the reasons discussed below. Additionally, Commission staff identified 359 pages of records that are withheld in full for one or more of the reasons discussed below.

Redaction and Withholding Under Exemption 5. Records responsive to your request were withheld or redacted under FOIA Exemption 5.⁶ Exemption 5 protects certain inter-agency and intra-agency records that are normally considered privileged in the civil discovery context.⁷

Exemption 5 encompasses a deliberative process privilege that generally covers “documents reflecting advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated.”⁸ To fall within the scope of this privilege, the agency records must be both (i) predecisional, meaning generated before the adoption of the agency decision and (ii) deliberative, meaning it reflects the “give-and-take” of the decision-making process.⁹ As

conducted searches, we also request any such records prepared in connection with the processing of this request.” The Commission does not use such questionnaires or certifications as part of its search process.

³ Email from Kristi Thompson, Office of the General Counsel, Federal Communications Commission, to Conor Gaffney, Counsel, Protect Democracy Project (sent May 20, 2026, 18:14 EDT).

⁴ Email from Conor Gaffney, Counsel, Protect Democracy Project, to Kristi Thompson, Office of the General Counsel, Federal Communications Commission (rec’d Jun. 5, 2026, 12:25 EDT).

⁵ *Id.*

⁶ 5 U.S.C. § 552(b)(5).

⁷ *See id.*

⁸ *NLRB v. Sears Roebuck & Co.*, 421 U.S. 132, 150 (1975).

⁹ *Id.* at 151-52; *Jud. Watch, Inc. v. FDA*, 449 F.3d 141, 151 (D.C. Cir. 2006); *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 867 (D.C. Cir. 1980).

applied to the instant matter, email communications and attachments that included pre-decisional, deliberative communications between FCC employees were withheld or redacted pursuant to this exemption. Specifically, communications between subordinates and supervisors providing analysis and evaluating different options for agency action were redacted or withheld. Similarly, candid staff discussions weighing the merits of arguments and making recommendations were redacted or withheld. Such communications are inherently deliberative and pre-decisional in nature.

We have determined that disclosure of these records would cause specific reasonably foreseeable harms to the deliberative process and the quality of agency decisions, both of which Exemption 5 is intended to protect.¹⁰ Particularly, the release of the withheld or redacted records is likely to inhibit staff candor and frankness in providing advice or recommendations during deliberations; result in premature disclosure of proposals not yet adopted; and cause confusion regarding the ultimate rationale for agency decisions.

Exemption 5 also encompasses the attorney-client privilege. The attorney-client privilege covers “confidential communications between an attorney and [the attorney’s] client relating to a legal matter for which the client has sought professional advice.”¹¹

The Commission identified and either redacted or withheld records that contained such confidential communications. Specifically, we redacted or withheld certain records that were sent by attorneys in the FCC’s Office of the General Counsel to other Commission staff in the context of answering requests for advice, providing legal analysis, or discussing work in active litigation matters. These records contained one or more aspects of professional advice, such as analysis of relevant case law precedents, assessment of litigation risks, development of litigation strategy, and/or assessing the soundness of legal arguments.

We have determined that it is reasonably foreseeable that disclosure would harm the attorney-client relationship, which Exemption 5 is intended to protect. Release of this information would foreseeably impair open and frank communication between the agency and its counsel in receiving or giving legal advice.

Finally, Exemption 5 also encompasses the attorney work product privilege. The privilege covers documents and memoranda prepared by an attorney in contemplation of litigation.¹² Specifically, we identified and withheld records that include attorney work product prepared in the course of still active litigation.

We have determined that it is reasonably foreseeable that disclosure would harm the adversarial court process, which Exemption 5 is intended to protect. Release of this information would foreseeably reveal attorney thought processes and/or undermine litigation strategy in ongoing matters.

Redaction Under Exemption 6. Records responsive to your request were redacted under FOIA Exemption 6.¹³ Exemption 6 protects “personnel and medical files and similar files the disclosure of

¹⁰ *NLRB*, 421 U.S. at 151.

¹¹ *Mead Data Cent., Inc. v. U.S. Dep’t Air Force*, 466 F.2d 242, 252 (D.C. Cir. 1977).

¹² See *Hickman v. Taylor*, 329 U.S. 495, 509-10 (1947); *Nat’l Ass’n of Crim. Def. Laws. v. Dep’t of Just. Exec. Off. for United States Att’ys*, 844 F.3d 246, 250-51 (D.C. Cir. 2016); Fed. R. Civ. P. 26(b)(3).

¹³ 5 U.S.C. § 552(b)(6).

which would constitute a clearly unwarranted invasion of personal privacy.”¹⁴ Specifically, material consisting of mobile phone numbers, non-public email addresses, personal email addresses of members of the public, and some material regarding personal obligations of FCC employees (in the context of scheduling or availability) has been redacted. Balancing the public’s right to disclosure against the individual’s right to privacy, we have determined that release of this information would constitute a clearly unwarranted invasion of personal privacy. We have determined that it is reasonably foreseeable that disclosure would harm the privacy interest of the persons mentioned in these records, which Exemption 6 is intended to protect.

Redaction and Withholding Under Exemption 7(A). Records responsive to your request were withheld or redacted under Exemption 7(A), which authorizes the withholding of “records or information compiled for law enforcement purposes [the production of which] . . . could reasonably be expected to interfere with enforcement proceedings.”¹⁵ Specifically, the records in question relate to one or more FCC enforcement investigations that have not yet been resolved. These records were specifically compiled for a law enforcement purpose, and the material relates to one or more law enforcement proceeding(s) that remain(s) pending. Because the law enforcement matter(s) to which the materials relate(s) have not yet been adjudicated, the we reasonably expect that premature release of the information will cause harm to the ongoing enforcement proceeding(s). Accordingly, we have determined that it is reasonably foreseeable that disclosure would harm the Commission’s or the Federal government’s law enforcement activities, which Exemption 7 is intended to protect.

* * *

Commission staff are continuing to process and review records potentially responsive to the Request and will supplement this initial interim response, as appropriate. If you have any questions or would like to discuss this matter further, please contact the undersigned at kristi.thompson@fcc.gov.

Sincerely,

Kristi Thompson

Digitally signed by Kristi
Thompson
Date: 2026.07.06 17:40:57 -04'00'

Kristi Thompson
Attorney Advisor
Office of the General Counsel

Enclosure(s)

cc: FCC FOIA Office

¹⁴ *Id.*

¹⁵ 5 U.S.C. § 552(b)(7)(A).