

Court decisions good news for FOIA users

By Jonathan Peters, Columbia Journalism Review

As the Freedom of Information Act approaches its 50th birthday next year, a major advocacy effort continues to push important reforms in Congress. But Capitol Hill isn't the only place where FOIA's future is being forged. Two federal appeals courts recently handed down opinions that clarify and affirm the rights of requestors and the responsibilities of agencies – one of them with particular importance for groups that plan to release publicly the information they gather.

That case comes from the D.C. Circuit, which in late August handed down an opinion that has big implications for advocacy groups and nontraditional publishers, increasing their chances of successfully claiming FOIA fee waivers. The case arose after Cause of Action, a conservative nonprofit organization, submitted three FOIA requests to the Federal Trade Commission, which denied the nonprofit's fee-waiver claims.

The FOIA permits agencies to charge reasonable fees for “document search, duplication, and review, when records are requested for commercial use.” Depending on the request, these fees can be substantial. But certain types of requests and requesters are entitled to fee waivers, and two were at issue in this case.

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