



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, D.C. 20207

CPSC Executive Session  
March 25, 1976

1750 K Street, N.W.  
Washington, D.C.

Presiding: Chairman Simpson

Present : Commissioner Franklin  
Commissioner Pittle

ITEM

Appeal to the Commission from the Secretary's Denial of a Freedom of Information Act Request for Portions of a Technical Proposal Submitted by Auerbach Associates, Inc.

(Briefing material transmitted by Office of Secretary  
March 18, 1976)

DECISION

By letter dated March 3, 1976, Mr. Stephen Kellner, on behalf of the Chemical Specialties Manufacturers Association (CSMA), appealed the Secretary's partial denial of his FOIA request for the Technical Proposal submitted by Auerbach Associates, Inc., in connection with the Commission's Product Ingredient Survey. The Secretary had withheld certain portions of the Technical Proposal, consisting of flowcharts of procedural steps, samples of input and output formats, and chemical edit procedure flow diagrams, on the basis that disclosure of this information could jeopardize the security of proprietary data submitted to Auerbach by product manufacturers in response to the Commission's product ingredient questionnaire. Further, the General Counsel advised the Secretary that the withheld portions of the Technical Proposal may in and of themselves constitute confidential commercial information within the exemption of the FOIA.

On review, the Commission affirms the Secretary's partial denial of CSMA's request based on section 552(b)(4) of the Freedom of Information Act (5 U.S.C. 552 et. seq.) which exempts from the Act's disclosure requirements "trade secrets and commercial or financial information obtained

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from a person and privileged or confidential." The Commission concludes that the withheld portions of the Technical Proposal are proprietary to Auerbach Associates, Inc., and that their release would jeopardize the security of proprietary data collected and maintained by Auerbach incident to the Commission's Product Ingredient Survey. The Commission considered CSMA's contention on appeal that it is entitled to the withheld security information because CSMA represents the companies required to submit the product ingredient data. The Commission does not accept the validity of that contention as to all of the companies affected by the Product Ingredient Survey.

For the foregoing reasons, the Commission denies CSMA's appeal.

VOTE

Concurring:

Chairman Simpson

Commissioner Franklin

Commissioner Kushner

Commissioner Pittle

*R. Simpson*  
*Barbara H. Frankel*  
 (3/29/76) *J. Kushner*  
*R. David Pittle*

Submitted by: Sadye E. Dunn  
 Secretary