

Fcc Vs. Atandt; Inc.

Fcc Vs. Atandt; Inc.

SooperKanoon Citation : sooperkanoon.com/108855

Court : US Supreme Court

Decided On : Feb-28-2011

Appeal No. : 09-1279

Appellant : Fcc

Respondent : Atandt; Inc.

Judgement :

FCC v. AT&T; Inc. - 09-1279 (2011)

SYLLABUS

OCTOBER TERM, 2010

FCC V. AT&T; INC.

SUPREME COURT OF THE UNITED STATES

FEDERAL COMMUNICATIONS COMMISSION et al. v . AT&T; INC. et al.

certiorari to the united states court of appeals for the third circuit

No. 09-1279.Argued January 19, 2011-Decided March 1, 2011

The Freedom of Information Act requires federal agencies to make records and documents publicly available upon request, subject to several statutory

exemptions. One of those exemptions, Exemption 7(C), covers law enforcement records the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U. S. C. 552(b)(7)(C). CompTel, a trade association, submitted a FOIA request for documents AT&T; had provided to the Federal Communications Commission Enforcement Bureau during an investigation of that company. The Bureau found that Exemption 7(C) applied to individuals identified in AT&T;s submissions but not to the company itself, concluding that corporations do not have personal privacy interests as required by the exemption. The FCC agreed with the Bureau, but the Court of Appeals for the Third Circuit did not. It held that Exemption 7(C) extends to the personal privacy of corporations, reasoning that personal is the adjective form of the term person, which Congress has defined, as applicable here, to include corporations, 551(2).

Held: Corporations do not have personal privacy for the purposes of Exemption 7(C). Pp. 3-12.

(a) AT&T; argues that the word personal in Exemption 7(C) incorporates the statutory definition of person, which includes corporations, 551(2). But adjectives do not always reflect the meaning of corresponding nouns. Person is a defined term in the statute; personal is not. When a statute does not define a term, the Court typically give[s] the phrase its ordinary meaning. *Johnson v. United States* , 559 U. S. ___, ___. Personal ordinarily refers to individuals. People do not generally use terms such as personal characteristics or personal correspondence to describe the characteristics or correspondence of corporations. In fact, personal is often used to mean precisely the *opposite* of business-related: We speak of personal expenses and business expenses, personal life and work life, personal opinion and a companys view. Dictionary definitions also suggest that personal does not ordinarily relate to artificial persons like corporations.

AT&T; contends that its reading of personal is supported by the common legal usage of the word person. Yet while person, in a legal setting, often refers to artificial entities, AT&T;s effort to ascribe a corresponding legal meaning to personal again elides the difference between person and personal. AT&T; provides scant support for the proposition that personal denotes corporations,

even in a legal context.

Regardless of whether personal can carry a legal meaning apart from its ordinary one, statutory language should be construed in light of the terms surrounding it. *Leocal v. Ashcroft* , 543 U. S. 1 , 9. Exemption 7(C) refers not just to the word personal, but to the term personal privacy. Personal in that phrase conveys more than just of a person; it suggests a type of privacy evocative of human concerns—not the sort usually associated with an entity like AT&T.; AT&T; does not cite any other instance in which a court has expressly referred to a corporations personal privacy. Nor does it identify any other statute that does so. While AT&T; argues that this Court has recognized privacy interests of corporations in the Fourth Amendment and double jeopardy contexts, this case does not call for the Court to pass on the scope of a corporations privacy interests as a matter of constitutional or common law. AT&T; contends that the FCC has not demonstrated that the phrase personal privacy necessarily excludes corporations privacy. But construing statutory language is not merely an exercise in ascertaining the outer limits of [a words] definitional possibilities, *Dolan v. Postal Service* , 546 U. S. 481 , 486, and AT&T; has provided no sound reason in the statutory text or context to disregard the ordinary meaning of the phrase. Pp. 3-9.

(b) The meaning of personal privacy in Exemption 7(C) is further clarified by two pre-existing FOIA exemptions. Exemption 6, which Congress enacted eight years before Exemption 7(C), covers personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. 552(b)(6). This Court has regularly referred to Exemption 6 as involving an individuals right of privacy, *Department of State v. Ray* , [502 U. S. 164](#) , 175, and Congress used in Exemption 7(C) the same phrase—personal privacy—used in Exemption 6. In contrast, FOIA Exemption 4, which protects trade secrets and commercial or financial information obtained from a person and privileged or confidential, 552(b)(4), clearly applies to corporations. Congress did not use any language similar to that in Exemption 4 in Exemption 7(C). Pp. 9-11.

582 F. 3d 490, reversed.

Roberts, C. J., delivered the opinion of the Court, in which all other Members joined, except Kagan, J., who took no part in the consideration or decision of the case.

FCC v. AT&T; Inc. - 09-1279 (2011)

OPINION OF THE COURT

FCC V. AT&T; INC.

562 U. S. ____ (2011)

SUPREME COURT OF THE UNITED STATES

NO. 09-1279

FEDERAL COMMUNICATIONS COMMISSION, et al., PETITIONERS v. AT&T; INC. et al.

on writ of certiorari to the united states court of appeals for the third circuit

[March 1, 2011]

Chief Justice Roberts delivered the opinion of the Court.

The Freedom of Information Act requires federal agencies to make records and documents publicly available upon request, unless they fall within one of several statutory exemptions. One of those exemptions covers law enforcement records, the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U. S. C. 552(b)(7)(C). The question presented is whether corporations have personal privacy for the purposes of this exemption.

I

The Freedom of Information Act request at issue in this case relates to an investigation of respondent AT&T; Inc., conducted by the Federal Communications

Commission. AT&T; participated in an FCC-administered program-the E-Rate (or Education-Rate) program-that was created to enhance access for schools and libraries to advanced telecommunications and information services. In August 2004, AT&T; voluntarily reported to the FCC that it might have overcharged the Government for services it provided as part of the program.

The FCCs Enforcement Bureau launched an investigation. As part of that investigation, AT&T; provided the Bureau various documents, including responses to interrogatories, invoices, emails with pricing and billing information, names and job descriptions of employees involved, and AT&T;s assessment of whether those employees had violated the companys code of conduct. 582 F. 3d 490, 492-493 (CA3 2009). The FCC and AT&T; resolved the matter in December 2004 through a consent decree in which AT&T;-without conceding liability-agreed to pay the Government \$500,000 and to institute a plan to ensure compliance with the program. See 19 FCC Rcd. 24014, 24016-24019.

Several months later, CompTel-a trade association representing some of AT&T;s competitors-submitted a FOIA request seeking [a]ll pleadings and correspondence in the Bureaus file on the AT&T; investigation. 582 F. 3d, at 493. AT&T; opposed CompTels request, and the Bureau issued a letter-ruling in response.

The Bureau concluded that some of the information AT&T; had provided (including cost and pricing data, billing-related information, and identifying information about staff, contractors, and customer representatives) should be protected from disclosure under FOIA Exemption 4, which relates to trade secrets and commercial or financial information, 5 U. S. C. 552(b)(4). App. to Pet. for Cert. 40a-41a. The Bureau also decided to withhold other information under FOIA Exemption 7(C). Exemption 7(C) exempts records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. 552(b)(7)(C). The Bureau concluded that individuals identified in [AT&T;s] submissions have privacy rights that warrant protection under Exemption 7(C). *Id.* , at 43a. The Bureau did not, however, apply that exemption to the corporation itself, reasoning that businesses do not possess personal privacy interests as required by the exemption. *Id.*, at 42a-43a.

On review the FCC agreed with the Bureau. The Commission found AT&T's position that it is a private corporate citizen with personal privacy rights that should be protected from disclosure that would embarrass it within the meaning of Exemption 7(C) at odds with established [FCC] and judicial precedent. 23 FCC Rcd. 13704, 13707 (2008). It therefore concluded that Exemption 7(C) has no applicability to corporations such as [AT&T;]. *Id.*, at 13710.

AT&T; sought review in the Court of Appeals for the Third Circuit, and that court rejected the FCC's reasoning. Noting that Congress had defined the word person to include corporations as well as individuals, 5 U. S. C. 551(2), the court held that Exemption 7(C) extends to the personal privacy of corporations, since the root from which the statutory word [personal] is derived is the defined term person. 582 F. 3d, at 497. As the court explained, [i]t would be very odd indeed for an adjectival form of a defined term not to refer back to that defined term. *Ibid.* The court accordingly ruled that FOIA's text unambiguously indicates that a corporation may have a personal privacy interest within the meaning of Exemption 7(C). *Id.*, at 498.

The FCC petitioned this Court for review of the Third Circuit's decision and CompTel filed as a respondent supporting petitioners. We granted certiorari, 561 U. S. ____ (2010), and now reverse.

II

Like the Court of Appeals below, AT&T; relies on the argument that the word personal in Exemption 7(C) incorporates the statutory definition of the word person. See Brief for Respondent AT&T; 8-9, 14-15 (AT&T; Brief); 582 F. 3d, at 497. The Administrative Procedure Act defines person to include an individual, partnership, corporation, association, or public or private organization other than an agency. 5 U. S. C. 551(2). Because that definition applies here, the argument goes, personal must mean relating to those person[s]: namely, corporations and other entities as well as individuals. This reading, we are told, is dictated by a basic principle of grammar and usage. AT&T; Brief 8; see *id.*, at 14-15; see also 582 F. 3d, at 497 (citing *Delaware River Stevedores v. DiFidelto*, 440 F. 3d

615, 623 (CA3 2006) (Fisher, J., concurring), for [t]he grammatical imperativ[e] that a statute which defines a noun has thereby defined the adjectival form of that noun). According to AT&T;, [b]y expressly defining the noun person to include corporations, Congress *necessarily* defined the adjective form of that noun-personal-also to include corporations. AT&T; Brief 14 (emphasis added).

We disagree. Adjectives typically reflect the meaning of corresponding nouns, but not always. Sometimes they acquire distinct meanings of their own. The noun crab refers variously to a crustacean and a type of apple, while the related adjective crabbed can refer to handwriting that is difficult to read, Websters Third New International Dictionary 527 (2002); corny can mean using familiar and stereotyped formulas believed to appeal to the unsophisticated, *id.*, at 509, which has little to do with corn, *id.*, at 507 (the seeds of any of the cereal grasses used for food); and while crank is a part of an axis bent at right angles, cranky can mean given to fretful fussiness, *id.*, at 530.

Even in cases such as these there may well be a link between the noun and the adjective. Cranky describes a person with a wayward or capricious temper, see 3 Oxford English Dictionary 1117 (2d ed. 1989) (OED), which might bear some relation to the distorted or crooked angular shape from which a crank takes its name. That is not the point. What is significant is that, in ordinary usage, a noun and its adjective form may have meanings as disparate as any two unrelated words. The FCCs argument that personal does not, in fact, derive from the English word person, but instead developed along its own etymological path, Reply Brief for Petitioners 6, simply highlights the shortcomings of AT&T;s proposed rule.

Person is a defined term in the statute; personal is not. When a statute does not define a term, we typically give the phrase its ordinary meaning. *Johnson v. United States* , 559 U. S. ___, ___ (2010) (slip op., at 4). Personal ordinarily refers to individuals. We do not usually speak of personal characteristics, personal effects, personal correspondence, personal influence, or personal tragedy as referring to corporations or other artificial entities. This is not to say that corporations do not have correspondence, influence, or tragedies of their own, only that we do not use the word personal to describe them.

Certainly, if the chief executive officer of a corporation approached the chief financial officer and said, I have something personal to tell you, we would not assume the CEO was about to discuss company business. Responding to a request for information, an individual might say, thats personal. A company spokesman, when asked for information about the company, would not. In fact, we often use the word personal to mean precisely the *opposite* of business-related: We speak of personal expenses and business expenses, personal life and work life, personal opinion and a companys view.

Dictionaries also suggest that personal does not ordinarily relate to artificial persons such as corporations. See, *e.g.*, 7 OED 726 (1933) ([1] [o]f, pertaining to the individual person or self, individual; private; ones own, [3] [o]f or pertaining to ones person, body, or figure, [5] [o]f, pertaining to, or characteristic of a person or self-conscious being, as opposed to a thing or abstraction); 11 OED at 599-600 (2d ed. 1989) (same); Websters Third New International Dictionary 1686 (1976) ([3] relating to the person or body; [4] relating to an individual, his character, conduct, motives, or private affairs; [5] relating to or characteristic of human beings as distinct from things); *ibid* . (2002) (same).

AT&T; dismisses these definitions, correctly noting that personal-at its most basic level-simply means [o]f or pertaining to a particular person. Websters New International Dictionary 1828 (2d ed. 1954). The company acknowledges that in non-legal usage, where a person is a human being, it is entirely unsurprising that the word personal is used to refer to human beings. AT&T; Brief 8. But in a watered-down version of the grammatical imperative argument, AT&T; contends that person-in common *legal* usage-is understood to include a corporation. Personal in the same context therefore can and should have the same scope, especially here in light of the statutory definition. See *id* ., at 8-9, 16.

The construction of statutory language often turns on context, see, *e.g.*, *Johnson* , *supra*, at ____ (slip op., at 5), which certainly may include the definitions of related words. But here the context to which AT&T; points does not dissuade us from the ordinary meaning of personal. We have no doubt that person, in a legal setting, often refers to artificial entities. The Dictionary Act makes that clear. 1 U.

S. C. 1 (defining person to include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals). But AT&T's effort to ascribe a corresponding legal meaning to personal again elides the difference between person and personal.

When it comes to the word personal, there is little support for the notion that it denotes corporations, even in the legal context. AT&T; notes that corporations are protected by the doctrine of personal jurisdiction, AT&T; Brief 19, but that phrase refers to jurisdiction *in personam* , as opposed to *in rem* , not the jurisdiction of a person. The only other example AT&T; cites is an 1896 case that referred to the personal privilege of a corporation. *Ibid.* (quoting *Mercantile Bank v. Tennessee ex rel. Memphis* , [161 U. S. 161](#) , 171 (1896) (emphasis deleted)). These examples fall far short of establishing that personal here has a legal meaning apart from its ordinary one, even if person does. Cf. *Merck & Co. v. Reynolds* , 559 U. S. ___, ___-___ (2010) (slip op., at 8-10) (noting that discovery is often used as a term of art in connection with the discovery rule and describing the judicial and legislative codification of that meaning over time); *Molzof v. United States* , [502 U. S. 301](#) , 306 (1992) (Punitive damages is a legal term of art that has a widely accepted common-law meaning this Courts decisions make clear that the concept has a long pedigree in the law).

Regardless of whether personal can carry a special meaning in legal usage, when interpreting a statute we construe language in light of the terms surrounding it. *Leocal v. Ashcroft* , 543 U. S. 1 , 9 (2004). Exemption 7(C) refers not just to the word personal, but to the term personal privacy. 552(b)(7)(C); cf. *Textron Lycoming Reciprocating Engine Div., AVCO Corp. v. Automobile Workers* , [523 U. S. 653](#) , 657 (1998) (It is not the meaning of for we are seeking here, but the meaning of [s]uits for violation of contracts). AT&T's effort to attribute a special legal meaning to the word personal in this particular context is wholly unpersuasive.

AT&T's argument treats the term personal privacy as simply the sum of its two words: the privacy of a person. Under that view, the defined meaning of the noun person, or the asserted specialized legal meaning, takes on greater significance.

But two words together may assume a more particular meaning than those words in isolation. We understand a golden cup to be a cup made of or resembling gold. A golden boy, on the other hand, is one who is charming, lucky, and talented. A golden opportunity is one not to be missed. Personal in the phrase personal privacy conveys more than just of a person. It suggests a type of privacy evocative of human concerns-not the sort usually associated with an entity like, say, AT&T.;

Despite its contention that [c]ommon legal usage of the word person supports its reading of the term personal privacy, AT&T; Brief 9, 13, 18, AT&T; does not cite a single instance in which this Court or any other (aside from the Court of Appeals below) has expressly referred to a corporation's personal privacy. Nor does it identify any other statute that does so. See Tr. of Oral Arg. 26. On the contrary, treatises in print around the time that Congress drafted the exemptions at hand reflect the understanding that the specific concept of personal privacy, at least as a matter of common law, did not apply to corporations. See Restatement (Second) of Torts 652I, Comment c (1976) (A corporation, partnership or unincorporated association has no personal right of privacy); W. Prosser, Law of Torts 97, pp. 641-642 (2d ed. 1955) (A corporation or a partnership as such can have no personal privacy, although it seems clear that it may have an exclusive right to its name and its business prestige (footnotes omitted)); cf. *id.* , 112, at 843-844 (3d ed. 1964) (It seems to be generally agreed that the right of privacy is one pertaining only to individuals, and that a corporation or a partnership cannot claim it as such (footnotes omitted)); *id.* , 117, at 815 (4th ed. 1971) (same).

AT&T; contends that this Court has recognized privacy interests of corporations in the Fourth Amendment and double jeopardy contexts, and that the term should be similarly construed here. See AT&T; Brief 20-25. But this case does not call upon us to pass on the scope of a corporation's privacy interests as a matter of constitutional or common law. The discrete question before us is instead whether Congress used the term personal privacy to refer to the privacy of artificial persons in FOIA Exemption 7(C); the cases AT&T; cites are too far afield to be of help here.

AT&T; concludes that the FCC has simply failed to demonstrate that the phrase personal privacy necessarily *excludes* the privacy of corporations. *Id.*, at 31-32 (emphasis added). But construing statutory language is not merely an exercise in ascertaining the outer limits of [a words] definitional possibilities, *Dolan v. Postal Service* , 546 U. S. 481 , 486 (2006). AT&T; has given us no sound reason in the statutory text or context to disregard the ordinary meaning of the phrase personal privacy.

III

The meaning of personal privacy in Exemption 7(C) is further clarified by the rest of the statute. Congress enacted Exemption 7(C) against the backdrop of pre-existing FOIA exemptions, and the purpose and scope of Exemption 7(C) becomes even more apparent when viewed in this context. See *Nken v. Holder* , 556 U. S. ___, ___ (2009) (slip op., at 6) (statutory interpretation turns on the language itself, the specific context in which that language is used, and the broader context of the statute as a whole (quoting *Robinson v. Shell Oil Co.* , [519 U. S. 337](#) , 341 (1997))). Two of those other exemptions are particularly relevant here.

The phrase personal privacy first appeared in the FOIA exemptions in Exemption 6, enacted in 1966, eight years before Congress enacted Exemption 7(C). See 80 Stat. 250, codified as amended at 5 U. S. C. 552(b)(6). Exemption 6 covers personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. 552(b)(6). Not only did Congress choose the same term in drafting Exemption 7(C), it also used the term in a nearly identical manner.

Although the question whether Exemption 6 is limited to individuals has not come to us directly, we have regularly referred to that exemption as involving an individuals right of privacy. *Department of State v. Ray* , [502 U. S. 164](#) , 175 (1991) (quoting *Department of Air Force v. Rose* , [425 U. S. 352](#) , 372 (1976) (internal quotation marks omitted)); see also *Department of State v. Washington Post Co.* , [456 U. S. 595](#) , 599 (1982).

AT&T; does not dispute that identical words and phrases within the same statute should normally be given the same meaning, *Powerex Corp. v. Reliant Energy Services, Inc.* , 551 U. S. 224 , 232 (2007), but contends that if Exemption 6 does not protect corporations, it is because [it] applies only to personnel and medical files and similar files, not because of the term personal privacy. AT&T; Brief 36 (quoting 552(b)(6)). Yet the significance of the pertinent phrase-the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, 552(b)(6)-cannot be so readily dismissed. Without it, Exemption 6 would categorically exempt personnel and medical files as well as any similar file. Even if the scope of Exemption 6 is also limited by the types of files it protects, the personal privacy phrase importantly defines the particular subset of that information Congress sought to exempt. See *Washington Post Co.* , *supra*, at 599. And because Congress used the same phrase in Exemption 7(C), the reach of that phrase in Exemption 6 is pertinent in construing Exemption 7(C).

In drafting Exemption 7(C), Congress did not, on the other hand, use language similar to that in Exemption 4. Exemption 4 pertains to trade secrets and commercial or financial information obtained from a person and privileged or confidential. 5 U. S. C. 552(b)(4). This clearly applies to corporations-it uses the defined term person to describe the source of the information-and we far more readily think of corporations as having privileged or confidential documents than personally private ones. So at the time Congress enacted Exemption 7(C), it had in place an exemption that plainly covered a corporations commercial and financial information, and another that we have described as relating to individuals. The language of Exemption 7(C) tracks the latter.

The Government has long interpreted the phrase personal privacy in Exemption 7(C) accordingly. Shortly after Congress passed the 1974 amendments that enacted Exemption 7(C), the Attorney General issued a memorandum to executive departments and agencies explaining that personal privacy in that exemption pertains to the privacy interests of individuals. U. S. Dept. of Justice, Attorney Generals Memorandum on the 1974 Amendments to the Freedom of Information Act 9, reprinted in House Committee on Government Operations and

Senate Committee on the Judiciary, Freedom of Information Act and Amendments of 1974 (P. L. 93-502), 94th Cong., 1st Sess., 507, 579 (Jt. Comm. Print 1975). The exemption, the Attorney General noted, does not seem applicable to corporations or other entities. *Ibid* . We have previously viewed this Memorandum as a reliable guide in interpreting FOIA, see *National Archives and Records Admin. v. Favish* , 541 U. S. 157 , 169 (2004); *FBI v. Abramson* , [456 U. S. 615](#) , 622, n. 5 (1982), and we agree with its conclusion here.

We reject the argument that because person is defined for purposes of FOIA to include a corporation, the phrase personal privacy in Exemption 7(C) reaches corporations as well. The protection in FOIA against disclosure of law enforcement information on the ground that it would constitute an unwarranted invasion of personal privacy does not extend to corporations. We trust that AT&T; will not take it personally.

The judgment of the Court of Appeals is reversed.

It is so ordered.

Justice Kagan took no part in the consideration or decision of this case.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com