

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY
WASHINGTON, D.C. 20502

August 4, 2014

Mr. Hans Bader
Senior Attorney
Competitive Enterprise Institute
1899 L Street, NW, 12th floor
Washington, DC 20036

Re: Decision Regarding the Information Correction Appeal

Dear Mr. Bader:

You submitted your April 14, 2014, Request for Correction under the Data Quality Act,¹ also known as the Information Quality Act, as implemented under the Office of Science and Technology Policy's (OSTP) Information Quality Guidelines.² In that Request for Correction, you asked OSTP to correct:

1. A statement OSTP Director John P. Holdren made in a video entitled *The Polar Vortex Explained in 2 Minutes*³ that, "A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."
2. A statement OSTP Senior Communications Advisor and Web Editor Becky Fried made in a January 8th blog post above *The Polar Vortex Explained* video that, "we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution."⁴

On June 6, 2014, OSTP responded to your request, concluding that Dr. Holdren and Ms. Fried's statements were "opinions" that are excluded from the legal definition of "information" and therefore are not subject to the Information Quality Act.

You appealed to my office on June 19, 2014, arguing that Dr. Holdren's and Ms. Fried's statements were facts, not opinions, and thus were "information" covered by the Act.⁵ Your appeal was timely.

¹ Section 515 of Public Law 106-554.

² <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-igq.pdf>

³ The White House, "The Polar Vortex, Explained in Two Minutes," (January 8, 2014),

<http://www.whitehouse.gov/share/polar-vortex-explained-two-minutes>.

⁴ Becky Fried, Office of Science and Technology Policy, "We the Geeks: 'Polar Vortex' and Extreme Weather," (January 8, 2014), <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>.

⁵ CEI June 19, 2014, Letter at 3.

I. Legal Standard

In 2002, OSTP issued Information Quality Guidelines to implement the Information Quality Act.⁶ OSTP's Guidelines, which are based on the Office of Management and Budget's Government-wide Information Quality Guidelines,⁷ provide that OSTP will, "[e]nsure the quality, objectivity, utility, and integrity of information it publicly disseminates."⁸ The definition of "information" establishes the scope of the applicability of these Guidelines. The term "information" is defined as "any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms."⁹ Further, it is appropriate to review the context surrounding a contested statement to determine whether that particular statement meets the Act's definition of "information." For example, the definition of information "does not include: a) Opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts."¹⁰ The person requesting the information correction bears the burden of proof.

II. Analysis

In the video entitled *The Polar Vortex Explained in 2 Minutes*, Dr. Holdren said, "A growing body of evidence suggests that the kind of extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues."¹¹ In your April 14, 2014, Request for Correction, you objected that this statement was an incorrect statement of fact, and you pointed to recent peer-reviewed studies which found that "global warming is not leading to increased atmospheric winter blocking...[or] causing an increase in winter cold waves or cold weather."¹² In your Appeal, you argue further that Dr. Holdren's statement is not an opinion, but an incorrect statement of fact. You focus on the phrase "a growing body of evidence" within Dr. Holdren's statement, asserting that whether evidence is growing is a *factual* issue, not a subjective one, and you cite additional sources that contradict claims about global warming leading to severe winter weather.¹³

OSTP's June 6th reply made clear that Dr. Holdren stands by the integrity and accuracy of his statements in the video. The "growing body of evidence" to which he referred is not contradicted by the subsequent appearance of articles arguing for alternative explanations; indeed, Dr. Holdren noted in the video that "as in all science, there will be continuing debate about exactly what is happening."

⁶ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-igq.pdf>.

⁷ Office of Management and Budget, Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication," 67 Fed. Reg. 8452 (Feb. 22, 2002), <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/reproducible2.pdf>.

⁸ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-igq.pdf>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ <http://www.whitehouse.gov/share/polar-vortex-explained-two-minutes>.

¹² CEI April 14, 2014, Letter at 3; *see also* CEI April 14, 2014, Letter at 3-8.

¹³ CEI June 19, 2014, Letter at 8-11.

Further, Dr. Holdren's closing sentence begins, "I believe the odds are...", which is an expression of his expert judgment and personal opinion. Dr. Holdren's expression of his opinion is legally determinative here. As explained above, OSTP's 2002 Information Quality Guidelines define the term "information" as "any communication or representation of knowledge such as facts or data..."¹⁴ "Information" does *not* include opinions or policy positions, where the presentation makes clear that the statements are subjective opinions or policy recommendations, rather than facts.¹⁵ Opinions are expressly excluded from the legal definition of "information" and therefore are not subject to correction under the Information Quality Guidelines.

You also take issue with a statement by Ms. Fried in a January 8th blog post. In that blog post, Ms. Fried stated that, "...we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution."¹⁶ In rebuttal, you point to evidence that indicates "the kind of extreme cold experienced in the United States this past winter is *not* linked to global warming."¹⁷

Ms. Fried's statement, however, is not "information" consistent with the legal definition set forth in the Information Quality Guidelines. Her statement does not include "facts or data," nor does it summarize statistical data or cite scientific literature, as would be consistent with a "representation of knowledge." Instead, her statement was made within the context of an *invitation* to readers to join a conversation with leading meteorologists, climate scientists, and weather experts to discuss why temperatures dipped to such frigid lows, how weather experts turn raw data into useful forecasts, and the experts' views about extreme weather events. Ms. Fried's statement merely identified the topic that experts would discuss in their conversation with the readers; her statement does not meet the legal definition of "information."

III. Conclusion

After reviewing your claims afresh, I conclude that the statements you contest do not fall within the legal definition of "information" under the Information Quality Guidelines. On this legal basis, I deny your appeal.

Sincerely,



Rachael Leonard
General Counsel

¹⁴ <http://www.whitehouse.gov/sites/default/files/microsites/ostp/ostp-iqg.pdf>.

¹⁵ *Id.*

¹⁶ <http://www.whitehouse.gov/blog/2014/01/08/we-geeks-polar-vortex-and-extreme-weather>

¹⁷ CEI June 19, 2014, Letter at 3 (emphasis added); *see also* CIE April 14, 2014, Letter at 2.

Appendix 1: Transcript of Polar Vortex Video

If you've been hearing that extreme cold spells, like the one that we are having in the United States now, disproves global warming, don't believe it. The fact is that no single weather episode can either prove or disprove global climate change.

Climate is the pattern of weather that we observe geographically and over the seasons, and it is described in terms of averages, variations, and probabilities.

But a growing body of evidence suggests that the extreme cold being experienced by much of the United States as we speak is a pattern that we can expect to see with increasing frequency as global warming continues, and the reason is this: in the warming world that we're experiencing, the far north, the Arctic, is warming roughly twice as rapidly as the mid-latitudes, such as the United States. That means that the temperature differences between the Arctic and the mid-latitudes is shrinking, and that temperature difference is what drives what is called the circumpolar vortex, which is the great counter-clockwise swirling mass of cold air that hovers over the Arctic.

As the temperature difference between the Arctic and the mid-latitudes declines, the polar vortex weakens, and it becomes "wavier." The "waviness" means that there can be increased, larger excursions of cold air southward (that is, into the mid-latitudes), and, in the other phase of the wave, increased excursions of relatively warmer mid-latitude air into the far north.

Computer models tell us that there are many different factors influencing these patterns, and, as in all science, there will be continuing debate about exactly what is happening. But, I believe the odds are that we can expect, as a result of global warming, to see more of this pattern of extreme cold in the mid-latitudes and some extreme warm in the far north.

Appendix 2: Ms. Fried's Google+ Hangout Invitation

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We the Geeks: "Polar Vortex" and Extreme Weather

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Posted by Becky Fried on January 08, 2014 at 04:37 PM EDT

Watch today's "We the Geeks" at 2:00 p.m. ET right here, or on the White House Google+ page.



Here at the White House, while we're beginning to thaw from this week's bone-chilling deep freeze, our discussions about the science of weather extremes are heating up.

We know that no single weather episode proves or disproves climate change. Climate refers to the patterns observed in the weather over time and space — in terms of averages, variations, and probabilities. But we also know that this week's cold spell is of a type there's reason to believe may become more frequent in a world that's getting warmer, on average, because of greenhouse-gas pollution.

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Join us this Friday, January 10th at 2:00 p.m. ET for We the Geeks: "Polar Vortex" and Extreme Weather, for a conversation with leading meteorologists, climate scientists, and weather experts about why temperatures dipped to such frigid lows this week, how weather experts turn raw data into useful forecasts, and what we know about extreme weather events in the context of a changing climate.

Cristin Dorgelo and resident polar-science expert Brendan Kelly from the White House Office of Science and Technology Policy will moderate the live discussion, to include:

- Stephanie Abrams, The Weather Channel
- Dr. J. Marshall Shepherd, President of the American Meteorological Society and Professor, University of Georgia
- Jim Overland, Arctic researcher at the National Oceanic and Atmospheric Administration (NOAA)
- Jason Samenow, Capital Weather Gang's chief meteorologist and the Washington Post's Weather Editor
- Bernadette Woods Plackey, Emmy-award winning Meteorologist at Climate Central
- Dan Ulech, Director for Energy and Climate Change at the White House Domestic Policy Council

We hope you'll join us this Friday at 2:00 p.m. ET at WhiteHouse.gov/We-The-Geeks and on the White House Google+ page to hear from the experts on the front lines of weather forecasting and climate science.

Got questions? Ask using the hashtag #WeTheGeeks on Twitter or on Google+ and we'll answer some of them during the live Hangout.

"We the Geeks" is a series of Google+ Hangouts to discuss science, technology, and innovation here in the United States. Join the conversation on Twitter and be sure to sign up for email updates about future "We the Geeks" hangouts.

Decky Fried is Senior Communications Advisor and Web Editor at the White House Office of Science & Technology Policy

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