

Section 64.1504, Restrictions on the Use of Toll-Free Numbers**SUPPORTING STATEMENT****A. Justification**

1. Section 228 of the Communications Act of 1934, as amended, establishes federal requirements governing common carriers' billing and collection for interstate pay-per-call and other information services. These statutory requirements are codified – often virtually verbatim – in Part 64 of the Commission's rules, 47 CFR Part 64.

47 CFR § 64.1504 of the Commission's rules incorporates the requirements of 47 U.S.C. 228(c)(7)-(10) that restrict the manner in which toll-free numbers may be used to charge telephone subscribers for information services.

Common carriers must prohibit the use of toll-free numbers in a manner that would result in the calling party being charged for information conveyed during the call, unless the calling party:

- (a) has executed a written agreement that specifies the material terms and conditions under which the information is provided, or
- (b) pays for the information by means of a prepaid account, credit, debit, charge, or calling card, and the information service provider includes in response to each call an introductory message disclosing specified information detailing the cost and other terms and conditions for the service.

Sections 228(c)(8)(A) and (c)(9) of the Communications Act contain, respectively, the required elements of the written agreement and the introductory message.

Section 228 of the Communications Act imposes standards upon common carriers who either transmit and/or perform billing and collection for interstate information services.

- (a) The restrictions on toll-free numbers contained in section 228(c) impose disclosure requirements upon information service providers, albeit indirectly.
- (b) Information service providers who choose to use toll-free numbers to provide their services must provide the required introductory message or written agreement.

See 47 CFR § 1504 of the Commission's rules.

As noted on the OMB 83-I, this collection does not affect individuals or households; thus there are no impacts under the Privacy Act because it does not require the collection of personal information from individuals.

The statutory authority(s) for the information collection requirements are found at 47 U.S.C. 228(c)(7) – (10); Pub. L. No. 192-556, 106 Sta. 4181 (1992), codified at 47 U.S.C. § 228 (The Telephone and Dispute Resolution Act of 1992)

2. The disclosure requirements contained in 47 CFR § 64.1504 of the Commission's rules governing toll-free numbers are intended to ensure:

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- (a) that consumers know when charges will be levied for calls to toll-free numbers, and
 - (b) are able to obtain information necessary to make informed choices about whether to purchase such information services.
3. Common carriers and information providers are free to explore use of information technology to meet disclosure obligations under section 228(c) of the Communications Act and the Commission's pay-per-call rules. In fact, Section 228 (c)(7)(C)(i) of the Communications Act and Section 64.1504 (c)(1) of the Commission's rules explicitly permit electronic transmission of written agreements to obtain information services through toll-free numbers.
4. 47 CFR § 64.1504 incorporates, virtually verbatim, statutory disclosure requirements contained in 47 U.S.C 228 (c).
 - (a) These requirements do not require disclosure of information already available elsewhere.
 - (b) Moreover, any alternative sources of information would not ensure that customers calling information services available through toll-free numbers are:
 - (1) informed if charges will be levied, and
 - (2) given the information necessary to make an informed decision whether to purchase the service.
5. The disclosure requirements for 47 CFR § 64.1504 of the Commission's rules may have significant impact on a substantial number of small businesses or other small entities such that when callers are to be charged for information services provided through toll-free numbers, information providers are required either to execute written agreements or preface the information program with an introductory message. These disclosure requirements will ensure that consumers receive the information necessary to make informed choices about whether to purchase information services available through toll-free numbers. The requirements are mandated by statute and are included in the Commission's rules virtually verbatim. The Commission cannot waive or reduce statutory requirements.
6. Without the disclosure requirements contained in 47 CFR § 64.1504 of the Commission's rules, consumers might not be adequately informed about the cost and other terms associated with information services available over toll-free numbers.

In fact, Congress enacted these requirements to address deception and abuse involving the use of 800 numbers to charge telephone subscribers for information services.
7. These disclosure requirements do not involve any payment or gift to respondents.
8. The Commission published a Notice in the Federal Register as required by 5 CFR Section 1320.8 (d). *See* 72 FR 9331, March 1, 2007. (Copy attached.) The Commission received no comments following publication of this Notice.
9. The Commission does not anticipate providing any payment or gift to any respondents.

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10. The information that is required to be disclosed includes:

- (a) the call detail data and recitation of federal pay-per-call requirements, and
- (b) the terms and conditions under which information services available through toll-free numbers are provided.

This information is not proprietary and does not implicate confidentiality or privacy concerns.

11. There are no questions of a sensitive nature with respect to the information collected.

12. Estimates of the hourly burden for the collection of information are as follows:

The Commission has only limited unverifiable information to predict the number of audiotext information service providers.

In 1996, the Commission staff estimated that there were approximately 10,000 to 20,000 common carriers operating in this area.

- (1) The Commission received no comments on that estimate during the 1996 comment process, as noted below.
- (2) Taking the mean between these numbers, the Commission estimated a total of 15,000 potential respondents (common carriers).

The Commission estimated that one quarter (0.25) of those audiotext information service providers would develop and offer information services through toll-free numbers by levying a service charge:

$$15,000 \text{ entities} \times 0.25 = 3,750 \text{ information service providers}$$

Of that number, it is estimated that approximately 2,750 information service provider will offer services through debit, credit, or calling card transaction and, thus, be required to provide an introductory message. The Commission estimated that this process may take 2 hours to complete.

$$2,750 \text{ respondents} \times 2 \text{ hours} = 5,500 \text{ hours}$$

The Commission estimated that the remaining 1,000 information service providers will offer subscription to information services available on a toll-free number, and thus, be required to execute subscription agreements in writing. This process is estimated to take 5 hour to complete.

$$1,000 \text{ respondents} \times 5 \text{ hours} = 5,000 \text{ hours.}$$

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The Commission assumes that the information service providers (respondents) will use “in house” personnel to perform all the necessary functions to comply with the reporting and recordkeeping requirements:

- (a) Each respondent’s legal staff person will prepare a standard universal contract for customers to subscribe to the “toll free” information services. The Commission estimates that it will require the legal staff approximately five (5) hours at a salary comparable to a GS-14/Step 5 (\$51.12/hour) in the Federal salary scale to prepare the contracts and the other legal requirements for the customer services and to review these periodically as required:

$$1,000 \text{ respondents} \times 5 \text{ hrs/yr/legal staff} \times \$51.12/\text{hr} = \$255,600$$

- (b) Each respondent’s legal staff person will prepare introductory messages. The Commission estimated that it will require the legal staff approximately two (2) hours at a salary comparable to a GS-14/Step 5 (\$51.12) in the Federal salary scale to prepare introductory messages, *e.g.* writing and recording.

$$2,750 \text{ respondents} \times 2 \text{ hrs/yr/legal staff} \times \$51.12/\text{hr} = \$281,160$$

Total Number of Respondents: 3,750

Total number of Responses: 3,750

Total Estimated Number of Burden Hours: 10,500 hours

Total Estimated In-House Costs: \$537,760

13. There are no recurring costs.

- (a) Any new costs will be incurred only when information providers develop new programs or change the terms and conditions of existing one.
- (b) The Commission believes respondents will make these changes in-house, with existing materials (*e.g.*, simply update software, not buying new equipment).

Thus, audiotext service providers can comply with the recordkeeping requirements using “in house” staff exclusively:

- (a) Total annualized capital/start-up cost: **\$0.00.**
- (b) Total annual cost (Operating & Maintenance): **\$0.00**
- (c) Total annualized cost requested: **\$0.00**

14. These disclosure requirements do not impose any costs on the Federal government.

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15. No change in burden is requested. The collection of information contained herein remains at 10,500 total annual burden hours. The collection is necessary to implement the requirements of 47 U.S.C. 228.
16. There are no plans to publish the result of the collection of information.
17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of this information.
18. There are no exceptions to Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods.

The Commission does not anticipate that the collection of information will employ statistical methods.